

Cobbett, William, 1763-1835 / Cobbett, William, / Howell, Thomas Bayly

Cobbett's complete Collection of State Trials and proceedings for high
treason and other crimes and misdemeanors from the earliest period to the
present time with notes and other illustrations
Bd.: Vol. 7. - 1678 - 1680

London (1810)

Crim. 59 r-7

urn:nbn:de:bvb:12-bsb10394016-4



COBBETT'S
COMPLETE COLLECTION

OF
State Trials

AND
PROCEEDINGS FOR HIGH TREASON AND OTHER
CRIMES AND MISDEMEANORS

FROM THE
EARLIEST PERIOD TO THE PRESENT TIME.

VOL. VII.

COMPRISING THE PERIOD
FROM THE THIRTIETH YEAR OF THE REIGN OF KING
CHARLES THE SECOND, A. D. 1678, TO THE THIRTY-
SECOND YEAR OF THE SAID REIGN, A. D. 1680.

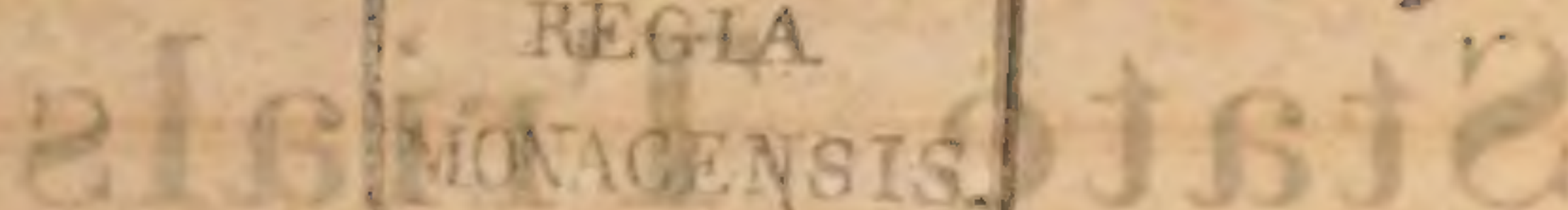
LONDON:

PRINTED BY T. C. HANSARD, PETERBOROUGH-COURT, FLEET-STREET.

PUBLISHED BY R. BAGSHAW, BRYDGES-STREET, COVENT-GARDEN; AND SOLD
BY J. BUDD, PALL-MALL; J. FAULDER, NEW-BOND-STREET; SHERWOOD,
NEELY AND JONES, PATER-NOSTER-ROW; BLACK, PARRY AND KINGSBURY,
LEADENHALL-STREET; BELL AND BRADFUTE, EDINBURGH; AND J. ARCHER,
DUBLIN.

1810.

CORBERTS



IV-307

TABLE OF CONTENTS.

TO

VOLUME VII.

STATE TRIALS IN THE REIGN OF KING CHARLES THE SECOND.

*** The new Matter is marked [N.]*

	<i>Page</i>
244. THE Trial of EDWARD COLEMAN, at the King's-Bench, for High Treason, A. D. 1678	111
245. The Trial of WILLIAM IRELAND, THOMAS PICKERING, and JOHN GROVE, at the Old Bailey, for High Treason, A. D. 1678	79
246. The Trial of the Lord CORNWALLIS, before the Lords at Westminster, for the Murder of Robert Clerk, A. D. 1678	143
247. The Trial of ROBERT GREEN, HENRY BERRY, and LAWRENCE HILL, at the King's-Bench, for the Murder of Sir Edmundbury Godfrey, A. D. 1679	159
248. The Trial of Mr. SAMUEL ATKINS, at the King's-Bench, for being acces- sary to the Murder of Sir Edmundbury Godfrey, A. D. 1679	231
249. The Trial of DAVID LEWIS, a Jesuit (pretended Bishop of Llandaff), at Monmouth Assizes, for High Treason, A. D. 1679	250
250. The Trial of NATHANAEL READING, esq. for a Trespass and Misdemeanor, A. D. 1679	259
251. The Trial of THOMAS WHITE, alias WHITEBREAD, Provincial of the Jesuits in England, WILLIAM HARCOURT, pretended Rector of London, JOHN FENWICK, Procurator for the Jesuits in England, JOHN GAVAN, alias GAWEN, and ANTHONY TURNER, all Jesuits and Priests, at the Old Bailey, for High Treason, A. D. 1679	311

TABLE OF CONTENTS.

	<i>Page</i>
252. The Trial of RICHARD LANGHORN, esq. at the Old Bailey, for High Treason, A. D. 1679	418
An ANSWER to the Reflections on the Five Jesuits Speeches; or, General Rules of Christian Charity. Together with the Speech of Henry IV. King of France in behalf of the Jesuits [N.].....	584
Animadversions on the last Speeches of the five Jesuits, viz. THOMAS WHITE alias WHITEBREAD, Provincial of the Jesuits in England; WILLIAM HARCOURT, pretended Rector of London; JOHN FENWICK, Procurator for the Jesuits in England; JOHN GAVAN alias GAWEN, and ANTHONY TURNER; who were all executed at Tyburn for High Treason in conspiring the Death of the King, &c. June 20, 1679 [N.].....	543
An Account of the Behaviour of the Fourteen late Popish Malefactors whilst in Newgate. And their Discourses with the Ordinary, viz. MESSRS. STALEY, COLEMAN, GROVE, IRELAND, PICKERING, GREEN, HILL, BERRY, WHITEBREAD, HARCOURT, FENWICK, GAWEN, TURNER, and LANGHORN. Also a Confutation of their Appeals, Courage, and Cheerfulness, at Execution. By Samuel Smith, Ordinary of Newgate, and Minister of the Gospel [N.].....	570
253. The Trial of Sir GEORGE WAKEMAN, bart. WILLIAM MARSHAL, WILLIAM RUMLEY, and JAMES CORKER, Benedictine Monks, at the Old Bailey, for High Treason, A. D. 1679	591
Some Observations upon the late Trials of Sir GEORGE WAKEMAN, CORKER, and MARSHAL, &c. By Tom Ticklefoot, the Tabourer, late Clerk to Justice Clodpate	687
The TICKLER TICKLED; or, the Observator upon the late Trials of Sir GEORGE WAKEMAN, &c. observed. By MARGERY MASON, Spinster	695
The Lord Chief Justice SCROGGS's SPEECH in the King's-Bench, the first Day of this present Michaelmas-Term, 1679, occasioned by many libellous Pamphlets which are published against Law, to the Scandal of the Government, and Public Justice. Together with what was declared at the same time on the same Occasion, in open Court, by Mr. Justice JONES, and Mr. Justice DOLBEN	702
254. The Trial of CHARLES KERNE, at Hereford Assizes, for High Treason, being a Romish Priest, A. D. 1679	707
255. The Trial of ANDREW BROMNICH, at Stafford Assizes, for High Treason, being a Romish Priest, A. D. 1679	715

TABLE OF CONTENTS.

	<i>Page</i>
256. The Trial of WILLIAM ATKINS, at Stafford Assizes, for High Treason, being a Romish Priest, A. D. 1679.....	726
257. The Trial of FRANCIS JOHNSON, a Franciscan, at Worcester, for High Treason, A. D. 1679 [N.].....	730
258. The Trial of THOMAS KNOX and JOHN LANE, at the King's-Bench, for a Misdemeanor, A. D. 1679	763
259. The Trials of LIONEL ANDERSON alias MUNSON, WILLIAM RUSSEL alias NAPPER, CHARLES PARRIS alias PARRY, HENRY STARKEY, JAMES CORKER, WILLIAM MARSHAL, and ALEXANDER LUMSDEN, with the Arraignment of DAVID JOSEPH KEMISH, at the Old Bailey, for High Treason, being Romish Priests, A. D. 1680.....	811
260. The Trial of JOHN TASBOROUGH and ANNE PRICE, at the King's-Bench, for Subornation of Perjury, A. D. 1680	882
261. The Trial of BENJAMIN HARRIS, Bookseller, at Guildhall, for causing to be printed, and sold, a Libel, entitled, "An Appeal from the Country to the City, for the Preservation of his Majesty's Person, Liberty, Property, and the Protestant Religion," A. D. 1680	926
262. The Trial of FRANCIS SMITH, Bookseller, at the Guildhall of London, for publishing a Libel, A. D. 1680	931
263. The Trial of JANE CURTIS, at Guildhall, for publishing the same Libel, A. D. 1680	959
264. The Trial of Sir THOMAS GASCOIGNE, bart. at the King's-Bench, for High Treason, A. D. 1680	959
265. The Trial of ELIZABETH CELLIER, at the King's-Bench, for High Treason, A. D. 1680.....	1043
266. The Trial of ROGER PALMER, esq. Earl of Castlemaine, in the Kingdom of Ireland, at the King's-Bench, for High Treason, A. D. 1680	1067
267. The Trial of HENRY CARR, or CARE, at the Guildhall of London, for a Libel, A. D. 1680.....	1111
268. The Trial of JOHN GILES, at the Old Bailey, for assaulting and attempting to murder John Arnold, esq. A. D. 1680	1130
269. The Trial of THOMAS THWING and MARY PRESSICKS, at York Assizes, for High Treason, A. D. 1680	1162
270. The Trial of ELIZABETH CELLIER, at the Old Bailey, for writing and publishing a Libel, September 11th and 13th, A. D. 1680	1183

TABLE OF CONTENTS.

	Page
271. Proceedings against the Five Popish Lords, viz. the Earl of Powis, Lord Viscount STAFFORD, Lord PETRE, Lord ARUNDEL of WARDOUR, and Lord BELLASYSE, for High Treason: Together with the Trial of Lord Viscount STAFFORD, A. D. 1678—1685.....	1218
The Trial of WILLIAM Viscount STAFFORD, before the Lords at Westminster, upon an Impeachment for High Treason, November 30, A. D. 1680.....	1294

COBBETT'S

COMPLETE COLLECTION

OF

State Trials.

244. The Trial* of EDWARD COLEMAN,† at the King's-Bench, for High Treason : 30 CHARLES II. A. D. 1678.

ON Wednesday the 27th of November, 1678, Mr. Coleman, having been arraigned the Saturday before for High-Treason, was brought to the King's-bench bar, to receive his trial, and the Court proceeded thereupon, as followeth:

Cl. of Cr. Crier, make proclamation.

Crier. O yes! Our sovereign lord the king does strictly charge and command all manner of persons to keep silence upon pain of imprisonment. If any one can inform our sovereign lord the king, the king's serjeant, or the king's attorney-general, or this inquest now to be taken, of any treason, murder, felony, or any other misdemeanour committed or done by the

prisoner at the bar, let them come forth, and they shall be heard, for the prisoner stands at the bar upon his deliverance.

Cl. of Cr. Crier, make an O yes.

Crier. O yes! You good men that are impannelled to enquire between our sovereign lord the king, and Edward Coleman prisoner at the bar, answer to your names.

Cl. of Cr. Edward Coleman, hold up thy hand. These good men that are now called, and here appear, are those which are to pass between you and our sovereign lord the king, upon your life or death; if you challenge any of them, you must speak as they come to the book to be sworn, and before they are sworn.

* From a pamphlet, entitled; "The Trial of Edward Coleman, gent. for conspiring the Death of the King, and the Subversion of the Government of England, and the Protestant Religion: who upon full evidence was found Guilty of High Treason, and received Sentence accordingly, on Thursday, November 28, 1678. London, printed for Robert Pawlet at the Bible in Chancery-lane near Fleet-street, 1678. November 28, 1678. I do appoint Robert Pawlet to print the Trial of Edward Coleman: And that no other person presume to print the same. Wm. Scroggs."

† See the Introduction to the Trials for the Popish Plot, vol. 6, p. 1401. Burnet's Hist. of his Own Time, vol. 1, p. 393, thus introduces Coleman: "The duchess of York had one put about her to be her secretary, Coleman; who became so active in the affairs of the party, and ended his life so unfortunately, that since I had much conversation with him, his circumstances may deserve that his character should be given, though his person did not. I was told, he was a clergyman's son: But he was early caught by the Jesuits, and bred many years among them. He understood

the art of managing controversies, chiefly that great one of the authority of the church, better than any of their priests. He was a bold man, resolved to raise himself, which he did by dedicating himself wholly to the Jesuits: And so he was raised by them. He had a great easiness in writing in several languages; and writ many long letters, and was the chief correspondent the party had in England. He lived at a vast expence. And talked in so positive a manner, that it looked like one who knew he was well supported. I soon saw into his temper; and I warned the duke of it: For I looked on him as a man much liker to spoil business, than to carry it on dexterously. He got into the confidence of P. Ferrier the king of France's confessor; and tried to get into the same pitch of confidence with P. de la Chaise, who succeeded him in that post. He went about every where, even to the jails among the criminals, to make proselytes. He dealt much both in the giving and taking of bribes." See more of him, p. 392, et seq. of the same volume. His name occurs in the Pièces Historiques, annexed to the Œuvres de Louis xiv.

B

The prisoner challenging none, the Court proceeded, and the Jury were sworn, viz. sir Reginald Forster, bart.; sir Charles Lee; Edward Wilford, esq.; John Bathurst, esq.; Joshua Galliard, esq.; John Bifield, esq.; Simon Middleton, esq.; Henry Johnson, esq.; Charles Umfrevile, esq.; Thomas Johnson, esq.; Thomas Eaglesfield, esq.; Wm. Bohee, esq.

Cl. of Cr. Crier, make an O yes.

Crier. O yes! Our sovereign lord the king does strictly charge and command all manner of persons to keep silence upon pain of imprisonment.

Cl. of Cr. Edward Coleman, hold up thy hand. You Gentlemen of the Jury that are now sworn, look upon the prisoner, and hearken to his charge. You shall understand, that the prisoner stands indicted by the name of Edward Coleman, late of the parish of St. Margaret's Westminster in the county of Middlesex, gent. for that he as a false traitor against our most illustrious, serene, and most excellent prince Charles, by the grace of God of England, Scotland, France, and Ireland king, defender of the faith, &c. and his natural lord; having not the fear of God in his heart, nor duly weighing his allegiance, but being moved and seduced by the instigation of the devil, his cordial love and true duty, and natural obedience, (which true and lawful subjects of our said lord the king ought to bear towards him, and by law ought to have) altogether withdrawing, and with all his strength intending, the peace and common tranquillity of this kingdom of England to disturb, and the true worship of God within the kingdom of England practised, and by law established, to overthrow, and sedition and rebellion within this realm of England to move, stir up and procure; and the cordial love and true duty and allegiance, which true and lawful subjects of our sovereign lord the king towards their sovereign bear, and by law ought to have, altogether to withdraw, forsake, and extinguish; and our said sovereign lord the king to death and final destruction to bring and put, the 29th day of September, in the 27th year of the reign of our said sovereign lord Charles the 2nd, of England, Scotland, France and Ireland king, defender of the faith, &c. at the parish of St. Margaret's Westminster aforesaid, in the county aforesaid, falsely, maliciously and traitorously proposed, compassed, imagined and intended, to stir up, and raise sedition and rebellion within the kingdom of England, and to procure and cause a miserable destruction among the subjects of our said lord the king, and wholly to deprive, depose, deject and disinherit our said sovereign lord the king, of his royal state, title, power, and rule of his kingdom of England, and to bring and put our said sovereign lord the king to final death and destruction, and to overthrow and change the government of the kingdom of England, and to alter the sincere and true religion of God, in this kingdom by law established; and wholly to subvert and destroy the state of the whole

kingdom, being in the universal parts thereof well established and ordained, and to levy war against our said sovereign lord the king, within his realm of England: And to accomplish and fulfil these his most wicked treasons, and traitorous designs and imaginations aforesaid, the said Edward Coleman afterwards, that is to say, the 29th day of September, in the 27th year of the reign of our said lord the king, at the parish of St. Margaret's Westminster aforesaid, in the county of Middlesex aforesaid, falsely, deceitfully and traitorously composed, contrived, and writ two letters, to be sent to one M. La Chaise, then servant and confessor of Lewis the French king, to desire, procure, and obtain, for the said Edward Coleman, and other false traitors against our said sovereign lord the king, the aid, assistance, and adherence of the said French king, to alter the true religion in this kingdom established, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England: And afterwards, that is to say, the said 29th day of September in the year aforesaid, at the parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, the said Edward Coleman falsely, traitorously and maliciously, composed and writ two other letters, to be sent to the said M. La Chaise, then servant and confessor to the said French king, to the intent that he the said M. La Chaise should intreat, procure, and obtain for the said Edward Coleman and other false traitors against our sovereign lord the king, aid, assistance, and adherence of the said French king, to alter the true religion in this kingdom of England established, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England: And that the said Edward Coleman, in further prosecution of his treason and traitorous imaginations and intentions, as aforesaid, afterwards, viz. the 29th day of September, in the 27th year of the reign of our said sovereign lord king Charles, of England, &c. the said several letters, from the said parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, falsely, maliciously and traitorously, did send to the said M. La Chaise, into parts beyond the seas, there to be delivered to him: And that the said Edward Coleman, afterwards, viz. the 1st day of December, in the 27th year of our said sovereign lord the king, at the said parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, did receive from the said M. La Chaise one letter, in answer to one of the said letters first mentioned, and written by him the said Edward Coleman to the said M. La Chaise; which said letter in answer as aforesaid, falsely, maliciously, and traitorously received, the day and year aforesaid, at the parish of St. Margaret's Westminster aforesaid, the said Edward Coleman did falsely, traitorously, and maliciously read over and peruse; And that the said Edward Coleman, the letter so as aforesaid, by him in answer to the said letter received into his custody and possession,

the day and year last mentioned, at the parish of St. Margaret's Westminster aforesaid, in the county of Middlesex aforesaid, did falsely, maliciously, and traitorously detain, conceal and keep. By which letter the said M. La Chaise, the day and year last mentioned, at the parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, did signify and promise* to the said Edward Coleman, to obtain for the said Edward Coleman, and other false traitors against our sovereign lord the king, aid, assistance and adherence from the said French king: And that the said Edward Coleman afterwards, viz. the 10th day of December, in the 27th year of the reign of our said sovereign lord the king, at the parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, his wicked treasons and traitorous designs and proposals as aforesaid did tell and declare to one M. Ravign, envoy-extraordinary from the French king to our most serene and sovereign lord king Charles, &c. in the county aforesaid residing, and did falsely, maliciously, and traitorously move and excite the said envoy-extraordinary to partake in his treason; and the sooner to fulfil and complete his traitorous designs, and wicked imaginations and intentions, the said Edward Coleman afterwards, viz. the 10th day of December in the 27th year of the reign of our sovereign lord king Charles the second of England, &c. aforesaid, at the parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, did advisedly, maliciously, deceitfully, and traitorously compose and write three other letters to be sent to one sir William Throckmorton, kt. then a subject of our said sovereign lord the king of this kingdom of England, and residing in France, in parts beyond the seas, viz. at the parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, to solicit the said M. La Chaise to procure and obtain of the said French king, aid, assistance and adherence as aforesaid, and the said letters last mentioned, afterwards, viz. the day and year last named as aforesaid, from the said parish of St. Margaret's Westminster, in the county of Middlesex aforesaid, did falsely and traitorously send, and cause to be delivered to the said sir William Throckmorton in France aforesaid, against his true allegiance, and against the peace of our sovereign lord the king that now is, his crown and dignity, and against the form of the statute in that case made and provided.

Cl. of Cr. Upon this Indictment he hath been arraigned, and hath pleaded thereunto Not Guilty; and for his trial he puts himself upon God and his country: which country you are. Your charge is to enquire, whether he be guilty of the high-treason whereof he stands indicted, or not guilty. If you find him guilty, you are to enquire what goods and chattels, lands and tenements he had at the time when the high-treason was committed, or at any

time since: If you find him not guilty, you are to say so, and no more, and hear your evidence.

Crier. If any one will give evidence on the behalf of our sovereign lord the king, against Edward Coleman the prisoner at the bar, let him come forth, and he shall be heard; for the prisoner now stands at the bar upon his deliverance.

Mr. Recorder. (Sir George Jefferies.) May it please you, my Lord, and you gentlemen of the jury; Mr. Edward Coleman, now the prisoner at the bar, stands indicted for high treason, and the indictment sets forth that the said Edward Coleman, endeavouring to subvert the protestant religion, and to change and alter the same; and likewise to stir up rebellion and sedition amongst the king's liege people, and also to kill the king; did on the 29th of September in the 27th year of the reign of our sovereign lord the king, at the parish of St. Margaret's, Westminster, in this county, compose and write two several letters to one M. La Chaise, that was then servant and confessor to the French king, and this was to procure the French king's aid and assistance to him and other traitors, to alter the religion practised, and by law established here in England, to the Romish superstition. The Indictment sets forth likewise, That on the same day he did write and compose two other letters to the same gentleman, that was servant and confessor to the said king, to prevail with him to procure the French king's assistance to alter the religion in this kingdom established to the Romish religion. The Indictment sets further forth, that he caused these two letters to be sent beyond seas. And it also sets forth, that on the 10th of December, the same month, he did receive a letter from the gentleman that was the confessor, in answer to one of the former letters, and in that letter aid and assistance from the French king was promised; and that he did traitorously conceal that letter. My Lord, the Indictment sets out further, that on the 10th day of the same month, he did reveal his treasons and traitorous conspiracies to one Monsieur Ravigni, who was envoy from the French king to his majesty of Great-Britain. And his Indictment declares, he afterwards did write three letters more to sir William Throckmorton, then residing in France, to procure the French king's assistance to the alteration of the religion practised here in England. Of these several offences he stands here indicted.

To this he hath pleaded Not Guilty. If we prove these, or either of them in the Indictment, you ought to find him guilty.

Serj. Maynard. May it please your lordship, and you gentlemen of the jury: This is a case of great concernment. Gentlemen, the prisoner at the bar stands indicted for no less than an intention and endeavour to murder the king; for an endeavour and attempt to change the government of the nation, so well settled and instituted, and to bring us all to

* See East's Pleas of the Crown, c. 2, s. 58.

ruin and slaughter of one another; and for an endeavour to alter the Protestant religion, and to introduce instead of it the Romish superstition, and Popery.

This is the charge in general, of the Indictment. We will proceed unto particulars, whereby it may appear, and whereupon he endeavoureth to accomplish his ends. One or two letters written to M. La Chaise (he is a foreigner, and we have nothing to say to him, being confessor to the French king) it was to excite and stir him up to procure aid and assistance (and you know what aid and assistance means) from a foreign prince, arms, and other levies. We charge him with it, that he did receive this letter, ay, and received an answer with a promise, that he should have assistance. He writ other letters to sir William Throckmorton, who traitorously conspired with him, and had intelligence from time to time from him. This is the charge in the Indictment; To which he hath pleaded, Not Guilty. We will go on in our evidence: I shall, but more generally, open our method, that we intend to take. For it may seem strange, and is not reasonably to be imagined, that a private gentleman, as the prisoner at the bar is, should have such vast and great designs as this, to alter religion, destroy the government, ay, and destroy the subjects too in a great measure. But it is not himself alone, but he employs himself for foreign assistance, great confederacies and combinations with the subjects of that king, many of whom he did pervert.

In the course of the Evidence I shall not open the particulars: (Mr. Attorney, I think, will do that by and by) those that we have occasion to speak of, and shall in proof mention to you, will be these; La Chaise, the French king's present confessor, we have mentioned: before him there was one Father Ferryer, with whom he held correspondence. That Ferryer being removed by death, the prisoner had an employment here amongst us, by which he gave La Chaise instructions how to proceed. This gentleman is the great contriver and plotter, which gives him instructions how to proceed. He doth give him an account by way of narrative, how all things had stood upon former treaties and negotiations, how businesses were contrived, and how far they were gone; this he diligently and accurately gives an account of. This (my lord) doth discover and delineate what hath been done before until 1674. My lord, there was likewise sir Wm. Throckmorton and some others, that are Englishmen too, there are none of them but what were first Protestants; but when they once renounced their religion, no wonder they should renounce their nation, and their prince too. He was gone beyond the seas, several letters past between them, and all to promote, and encourage, and accomplish this design. My lord, there is likewise a consult of Jesuits used too, where, in express words, they designed to murder the king, or contrived and advised upon it.

My Lord, there were four Irishmen (I open

but the heads of things) sent to Windsor to murder the king: this gentleman received and disbursed money about this business, and one Ashby a Jesuit here had instructions from him to prosecute the design, and to treat with a physician to poison the king. This the prisoner approved of, and contributed to it. There were commissions, as I take it, delivered from Ferryer, or by his hand, that came from foreign powers. Sir Henry Titchbourne was another that received and delivered commissions. Pomponne the French gentleman, he maintains intelligence with him about this business, the titular archbishop of Dublin.

There is Cardinal Norfolk, by him he had accessions to the Pope. There was likewise the Pope's Nuncio (I do not open the transactions of these instructions); these particulars will be made out, not only by witness *viva voce*, and not single only, but by letters of this Mr. Coleman's own writing. But I offer that to the consideration of the jury.

Mr. Oates was the first man, that we hear of, that discovered this treason; he was the single man that discovered so many active agents in so great a treason as this was, and it needed to be well seconded; but he being found to be but single, the boldness and courage of these complotters in it grew great thereupon. We know what followed; the damnable murder of that gentleman, in execution of his office, so hellishly contrived, and the endeavours that were used to hide it, every body knows: how many stories were told to hide that abominable murder, how many lies there were about it, but it could not be suppressed. The nation is awakened out of sleep, and it concerns us now to look about us. But all this while Mr. Coleman thought himself safe, walked in the fields, goes abroad, jealousy increasing, and he himself still secure.

The letters that are produced go but to some part of the year 1675: from 1675 unto 1678 all lies in the dark, we have no certain proof of it; but we apprehend he had intelligence until 1678; that there were the same persons continuing here, and his company increasing here: but this I speak but as probable, (but very exceeding probable) that there was other passages of intelligence between this person and other confederates.

It seems, my lord, that this Coleman was aware that he was concerned; but God blinded and infatuated him, and took away his reason. It is no question but he carried away some of those papers; those that were left behind, and are produced, he forgot and neglected; and by that (my lord) those which are produced, are evidence against him at this time. Surely he thought we were in such a condition, that had eyes and could not see, and ears that could not hear, and understandings without understanding: for he was bold, and walked abroad, and that until this prosecution was made upon him, he endeavoured to murder the king, change the government, make an alteration of religion, and destruction of Protestants, as well

as the Protestant religion; and it will be proved by some letters, when they were rejected by the duke, that he sent them in the duke's name. And by this no man will doubt but he is a great traitor.

Attorn. Gen. (Sir William Jones.) May it please your lordship, and you gentlemen of the jury, the king's serjeant hath opened the general parts of our evidence; and we have reason to foresee that our evidence will be very long, and will take up much of your time; and therefore I shall spend no more time in opening of it than is just necessary. And indeed, my lord, Mr. Coleman himself hath saved me much of the labour, which otherwise I should have bestowed; for he hath left such elegant and copious narratives of the whole design under his own hand, that the reading of them will be better than any new one I can make.

But, my lord, some short account I shall give you, such as may shew you the course of our Evidence, and will make our evidence, when it comes to be given, to be more intelligible.

My lord, It will appear, that there hath been for many years last past a more than ordinary design and industry to bring in the Popish, and extirpate the Protestant religion. I doubt not but this design, in some measure, hath been contriving ever since the reformation, by the Jesuits, or some of their emissaries, but hath often received interruption; so that they have proceeded sometimes more coldly, sometimes more hotly: and I do think, at no time since the reformation, that ever this design was carried on with greater industry, nor with fairer hopes of success, than for these last years.

My lord, You will hear from our witnesses, that the first onset, which was to be made upon us, was by whole troops of Jesuits and priests, who were sent hither from the seminaries abroad, where they had been trained up in all the subtilty and skill that was fit to work upon the people.

My lord, you will hear how active they have been, and what insinuations they used for the perverting of particular persons. After some time spent in such attempts, they quickly grew weary of that course; though they got some Proselytes, they were but few. Some bodies, in whom there was a predisposition of humours, were infected; but their numbers were not great. They at last resolve to take a more expeditious way; for in truth, my lord, they could not far prevail by the former. And I wish with all my heart, that the bodies of Protestants may be as much out of danger of the violence of their hands, as their understandings will be of the force of their arguments. But, my lord, when this way would not take, they began then to consider they must throw at all at once. No doubt but they would have been glad, that the people of England had had but one neck; but they knew the people of England had but one head, and therefore they were resolved to strike at that.

My lord, you will find, that there was a summons of the principal Jesuits, of the most able head-pieces, who were to meet in April or May last, to consult of very great things, of a most diabolical nature, no less than how to take away the life of the king our sovereign.

My lord, you will find (as is usually practised in such horrid conspiracies, to make all secure, that there was an oath of secrecy taken, and that upon the Sacrament. You will find agreements made, that this most wicked and horrible design should be attempted. You will find two villains were found among them, who undertook to do this execrable work; and you will hear of the rewards they were to have: money in case they did succeed, and masses good store in case they perished; so that their bodies were provided for in case they survived, and their souls if they died. My lord, What was the reason they did not effect their design, but either that these villains wanted opportunity, or their hearts failed them when they came to put in execution this wicked design? Or, perhaps (which is most probable) it was the Providence of God, which over-ruled them, that this bloody design did not take its effect.

But these gentlemen were not content with one essay, they quickly thought of another; and there were four Irish-men prepared (men of very mean fortunes, and desperate conditions), and they were to make the attempt no longer since, than when the king was last at Windsor.

My lord, I perceive by the Proofs, that these last assassins went down thither; but it came to pass (for some of the reasons aforesaid) that that attempt failed likewise.

My lord, These gentlemen, those wise heads, who had met here in consultation, did then, and long before, consider with themselves, that so great a cause as this was not to be put upon the hazard of some few hands; they therefore proposed forces, aids, and assistances, both at home and abroad, to second this wicked design, if it had succeeded as to the person of the king; and if that failed, then by their foreign and domestic aids and assistances, to begin and accomplish the whole work of subverting our government and religion. And here we must needs confess, as to the former part of this Plot, which we have mentioned, I mean the attempt upon the king's person, Mr. Coleman was not the contriver, nor to be the executioner; but yet your lordship knows, in all treasons there is no accessory, but every man is a principal. And thus much we have against him, even as to this part of the design, which will involve him in the whole guilt of it, that Mr. Coleman consented to it, though his hand were not to do it. Mr. Coleman encouraged a messenger to carry money down as a reward of these murderers, that were at Windsor; of this we have proof against him, which is sufficient. My lord, Mr. Coleman, as a man of greater abilities, is reserved for greater employments, and such wherein, I confess, all his abilities were little enough. There were nego-

tiations to be made with men abroad, money to be procured, partly at home from friends here, and partly abroad from those that wished them well: and in all these negotiations Mr. Coleman had a mighty hand; and you will perceive by and by what a great progress he made in them. This conspiracy went so far, as you will hear it proved, that there were general officers named and appointed, that should command their new Catholic army, and many were engaged, if not listed. There were not only in England, but in Ireland likewise, where arms and all other necessities were provided, and whither great sums of money were returned to serve upon occasion. But one thing there is, my lord, that comes nearest Mr. Coleman: as there were military officers named, so likewise the great civil places and offices of the kingdom were to be disposed of; I will not name to whom at this time, more than what is pertinent to the present business.

This gentleman, such were his great abilities, the trust and reliance that his party had upon him, that no less an office would serve his turn than that of principal secretary of state; and he had a commission, that came to him from the superiors of the Jesuits, to enable him to execute that great office. My lord, it seems strange, that so great an office should be conferred by no greater a man than the superior of the Jesuits. But if the pope can depose kings, and dispose of kingdoms, no wonder if the superior of the Jesuits can by a power delegated from him make secretaries. It is not certain what the date of this commission was, nor the very time when he received it: but I believe he was so earnest and forward in this Plot, that he began to execute his office long before he had his commission for it; for I find by his letters, which are of a more early date, that he had proceeded so far as to treat with Father Ferryer, who was the French king's confessor, before he had actually received this commission. You will understand by the letters, which we shall produce, what he had to do with him, and what with the other confessor that succeeded, Father La Chaise. There were two small matters they treated of, no less than the dissolving the parliament; and the extirpation of the Protestant religion. Nay, you will find, and you will hear enough, when the letters come to be read, that Mr. Coleman made many strokes at the parliament, he had no good opinion of them. And we cannot blame him; for without all peradventure they had made, and I hope ever will make, strong resistance against such designs as these. But a great mind he had to be rid of them; and he had hopes of great sums of money from abroad, if it had been to be done that way. And it is very remarkable (and shews the vanity of the man,) he had such an opinion of the success of these negotiations, that he had penned a declaration prepared by him, and writ with his own hand, to be published in print, upon the dissolution of the parliament, to justify that action with many specious and

plausible reasons. As he did this without any direction, so he takes upon him to write a declaration, as in the name of the king, without the least shadow of any command to do it, so he prepares a letter also in the name of the duke: and I would not affirm, unless I could prove it, and that from his own confession, (being examined before the lords upon oath) that he had no manner of authority from the duke to prepare such a letter; and when it was written and brought to the duke, it was rejected, and the writer justly blamed for his presumption. By this you will perceive the forwardness of this man. And you must of necessity take notice, that in his letters he took upon himself to manage affairs, as authorized by the greatest persons in the kingdom, yet without the least shadow of proof that he was by them impowered to do it.

My lord, you shall find, Mr. Coleman thought himself above all; and such was his own over-weening opinion of his wit and policy, that he thought himself the sole and supreme director of all the affairs of the Catholics. You will likewise perceive that he held intelligence with cardinal Norfolk, with Father Sheldon, and the pope's internuncio at Brussels. And I cannot but observe out of the proofs, that as we shall find Mr. Coleman very ambitious and forward in all great affairs, so he had a little too much eye to the reward; he looked too much a-squint upon the matter of money: his great endeavours were not so much out of conscience, or out of zeal to his religion, as out of temporal interest; to him gain was instead of godliness. And by his letters to the French confessor M. La Chaise, it will be proved, that he got much money from the Catholics here, and some from abroad, but still he wanted money. What to do? (I do not mean the greater sum of 200,000*l.* to procure the dissolution of the parliament, but some 20,000*l.* only) to be expended by him in secret service, I do not know what account he would have given of it, if he had been intrusted with it. But that he earnestly thirsted after money, appeareth by most of his letters.

My lord, you will observe, besides his intelligences, that he had with father La Chaise, and several others, one that deserves to be named, and that is his negotiation with sir William Frogmorton, who was sent over into France, and there resided a long time to promote these designs. He is dead; therefore I will not say much of him, as I would say against him, if he was here to be tried. But, my lord, I find in his letters such treasonable, such impious expressions against the king, such undutiful characters of him, that no good subject would write, and no good subject would receive and conceal, as Mr. Coleman hath done. My lord, it may pass for a wonder, how we came to be masters of all these papers; it has in part been told you already.

There was an information given of the general design, nay of some of the particulars

against the king's life. And without all peradventure, Mr. Coleman knew of this discovery; and he knew that he had papers that could speak too much, and he had time and opportunity enough to have made them away, and I make no question but he did make many away. We are not able to prove the continuance of his correspondence, so as to make it clearly out; but we suppose that continued until the day he was seized. And there is this to be proved, that letters came for him, though we cannot say any were delivered to him, after he was in prison. But without all peradventure the man had too much to do, too many papers to conceal: then, you'll say, he might have burnt them all (for many would burn as well as a few :) But then he had lost much of the honour of a great statesman; many a fine sentence, and many a deep intrigue had been lost to all posterity. I believe that we owe this discovery to something of Mr. Coleman's vanity: he would not lose the glory of managing these important negotiations about so great a design: He thought it was no small reputation to be intrusted with the secrets of foreign ministers. If this was not his reason, God (I believe) took away from him that clearness of judgment, and strength of memory, which he had upon other occasions.

My lord, I shall no longer detain you from reading the papers themselves. But I cannot but account this kingdom happy, that these papers are preserved. For (my lord) we are to deal with a sort of men, that have that prodigious confidence, that their words and deeds (though proved by never so unsuspected testimony) they will still deny. But (my lord) no denial of this plot will prevail, for Mr. Coleman himself hath, with his own hand, recorded this conspiracy: and we can prove his hand, not only by his own servants, and relations, but by his own confession. So that (my Lord) I doubt not, that if there be any of their own party that hear this trial, they themselves will be satisfied with the truth of these things. And I believe we have an advantage in this case, which they will not allow us, in another matter; namely, that we shall be for this once permitted to believe our own senses. Our Evidence consisteth of two parts: one is, witness *viva voce*, which we desire (with the favour of the court) to begin with; and when that is done, we shall read several letters or negotiations, in writing, and so submit the whole to your lordship's direction.

Pris. I beg leave that a poor ignorant man, that is so heavily charged, that it seems a little unequal to consider the reason, why a prisoner, in such a case as this is, is not allowed counsel; but your lordship is supposed to be counsel for him. But I think it very hard I cannot be admitted counsel; and I humbly hope your lordship will not suffer me to be lost by things that myself cannot answer. I deny the conclusion, but the premises are too strong and artificial.

Sir William Scroggs* *L. C. J.* You cannot deny the premises, but that you have done these things: but you deny the conclusion, that you are a traitor?

Pris. I can safely and honestly.

L. C. J. You would make a better Secretary of State, than a Logician; for they never deny the conclusion.

Pris. I grant it your Lordship: you see the advantage great men have of me, that do not pretend to Logic.

L. C. J. The labour lies upon their hands; the proof belongs to them to make out these intrigues of yours; therefore you need not have counsel, because the proof must be plain upon you,† and then it will be in vain to deny the conclusion.

Pris. I hope, my lord, if there be any point of law that I am not skilled in, that your lordship will be pleased not to take the advantage over me. Another thing seems most dreadful, that is, the violent prejudice that seems to be against every man in England, that is confessed to be a Roman Catholic. It is possible that a Roman Catholic may be very innocent of these crimes. If one of those innocent Roman Catholics should come to this bar, he lies under such disadvantages already, and his prejudices so greatly biasseth human nature, that unless your lordship will lean extremely much on the other side, justice will hardly stand upright, and lie upon a level. But to satisfy your lordship, I do not think it any service to destroy any of the king's subjects, unless it be in a very plain case.

L. C. J. You need not make any preparations for us in this matter; you shall have a fair, just, and legal trial: if condemned, it will be apparent you ought to be so; and without a fair proof, there shall be no condemnation. Therefore you shall find, we will not do to you, as you do to us, blow up at adventure, kill people because they are not of your persuasion; our religion teacheth us another doctrine, and you shall find it clearly to your advantage. We seek no man's blood but our own safety. But you are brought here from the necessity of things, which yourselves have made; and from your own actions you shall be condemned or acquitted.

Pris. It is supposed upon Evidence, that the Examinations that have been of me in prison, are like to be evidence against me now; I have nothing to say against it: but give me leave to say at this time, that when I was in prison, I was upon my ingenuity charged; I

* See the character of this Chief Justice as drawn by Burnet, *ante* vol. 6, p. 1425. And what opinion the House of Commons had of him by their votes Dec. 25, 1680. See Cobbett's *Parl. Hist.* vol. 4. And see more of him in a note to the trial of Mrs. Cellier for High Treason, June 21, 1680, *infra*.

† See the Note to Don Pantaleon Sa's Case, *ante*, vol. 4, p. 466, and that to Twyn's Case, *ante*, vol. 6, p. 513.

promised I would confess all I knew. And I only say this, That what I said in prison is true, and am ready at any time to swear and evidence, that that is all the truth.

L. C. J. It is all true that you say; but did you tell all that was true?

Pris. I know no more, than what I declared to the two Houses.

L. C. J. Mr. Coleman, I will tell you when you will be apt to gain credit in this matter: you say, that you told all things that you knew, the truth, and the whole truth. Can mankind be persuaded, that you, that had this negotiation in 1674 and 1675, left off just then, at that time when your letters were found according to their dates? do you believe, there was no negotiation after 1675, because we have not found them? have you spoke one word to that? have you confessed, or produced those papers and weekly intelligence? when you answer that, you may have credit; without that, it is impossible: for I cannot give credit to one word you say unless you give an account of the subsequent negotiation.

Pris. After that time (as I said to the House of Commons) I did give over corresponding. I did offer to take all oaths and tests in the world, that I never had one letter for at least two years; yea, (that I may keep myself within compass) I think it was for three or four. Now I have acknowledged to the House of Commons, I have had a cursory correspondence, which I never regarded or valued; but as the letters came, I burnt them, or made use of them as common paper. I say, that for the general correspondence I have had for two or three years, they have had every one of them letters that I know of.

Att. Gen. Whether you had or no, you shall have the fairest trial that can be. And we cannot blame the gentleman, for he is more used to greater affairs, than these matters or forms of law. But my Lord, I desire to go unto evidence, and when that is done, he shall be heard, as long as he pleaseth, without any interruption. If he desire it, before I give my evidence, let him have Pen, Ink, and Paper with your lordship's leave.

L. C. J. Help him to pen, ink, and paper.

Record. Then we desire to go on in our evidence. We desire that Mr. Oates may not be interrupted.

Court. He shall not be interrupted.

Att. Gen. The first thing we will inquire, what account he can give of the prisoner at the bar, whether he was any way privy to the murder of the king?

L. C. J. Mr. Oates, we leave it to yourself to take your own way, and your own method: only this we say, here's a gentleman stands at the bar, for his life; and on the other side, the king is concerned for his life: you are to speak the truth and the whole truth; for there is no reason in the world that you should add any one thing that is false. I would not have a tittle added for any advantage, or consequences that may fall, when a man's blood and life lieth

at stake: let him be condemned by truth; you have taken an oath, and you being a minister know the great regard you ought to have of the sacredness of an oath; and that to take a man's life away by a false oath is murder, I need not teach you that. But that Mr. Coleman may be satisfied in the trial, and all people else be satisfied, there is nothing required or expected, but downright plain truth, and without any arts either to conceal, or expatiate, to make things larger than in truth they are: he must be condemned by plain evidence of fact.

Oates. My Lord, Mr. Coleman, in the month of November last, did entertain in his own house John Keins, which John Keins was a Father-Confessor to certain persons that were converted, amongst which I was one. My Lord, I went and visited this John Keins at Mr. Coleman's house then in Stable-yard. Mr. Coleman inquiring of John Keins who I was? He said I was one that designed to go over upon business to St. Omers. My Lord, Mr. Coleman told me then he should trouble me with a letter or two to St. Omers, but he told me he would leave them with one Fenwick, that was procurator for the society of Jesuits in London. I went on Monday morning and took coach, went to Dover, and had his packet with me, which packet when I came to St. Omers I opened. The outside sheet of this paper was a letter of news which was called Mr. Coleman's letter, and at the bottom of this letter there was this recommendation, Pray recommend me to my kinsman Playford. In this letter of news there were expressions of the king, calling him tyrant, and that the marriage between the prince of Orange and the lady Mary the duke of York's eldest daughter would prove the traitor's and tyrant's ruin.

L. C. J. In what language was it written?

Oates. In plain English words at length.

L. C. J. Directed to whom?

Oates. It was directed to the Rector of St. Omers, to give him intelligence how affairs went in England.

L. C. J. Did you break it open?

Oates. I was at the opening of it, and saw it, and read it. There was a letter to Father La Chaise, which was superscribed by the same hand that the treasonable letter of news was written, and the same hand that the recommendation to Playford was written in. When this letter was open there was a seal fixt, a flying seal, and no man's name to it.

L. C. J. What was the contents of that letter to La Chaise?

Oates. My Lord, to give you an account of the import of this letter, it was writ in Latin, and in it there were thanks given to Father La Chaise for the 10,000*l.* which was given for the propagation of the Catholic Religion, and that it should be employed for no other intent and purpose but that for which it was sent, now that was to cut off the king of England; those words were not in that letter, but La Chaise letter, to which this was the answer, I saw and read. It was dated the month of August, and as near

as I remember there was this instruction in it, That the 10,000*l.* should be employed for no other intent and purpose but to cut off the king of England; I do not swear the words, but that is the sense and substance; I believe I may swear the words.

L. C. J. To whom was that directed?

Oates. To one Strange; that was then provincial of the society in London, which Mr. Coleman answered.

L. C. J. How came Mr. Coleman to answer it?

Oates. Strange having run a reed into his finger, had wounded his hand, and secretary Mico was ill, so he got Mr. Coleman to write an answer unto it.

L. C. J. Did he write it as from himself?

Oates. Yes, by order of the provincial.

L. C. J. What was the substance of that answer?

Oates. That thanks was given to him in the name of the whole society for the 10,000*l.* which was paid and received here, and that it should be employed to the intent for which it was received. It was superscribed from Mr. Coleman.

L. C. J. Was it subscribed Coleman?

Oates. It was not subscribed; I did not see him write it, but I really believe it was by the same hand. I went and delivered this letter.

L. C. J. I understood you because of the accident of his hand he had employed Mr. Coleman to write this for him.

Oates. He did write this letter then, the body of the letter was written by Mr. Coleman. I did not see him write it, but I shall give an account how I can prove he wrote it. I delivered this Letter to La Chaise, his own hand. When I opened the letter he asked me how a gentleman (naming a French name) did do.

L. C. J. When you carried this letter, you carried it to La Chaise and delivered it to him: then he asked you of the gentleman of the French name, whom meant he by that name?

Oates. I understood it to be Mr. Coleman.

L. C. J. Did he know him by some French name? What said you?

Oates. I could say little to this.

L. C. J. Could you guess whom he meant?

Oates. He told me he was sometime secretary to the dutchess of York, which I understood to be Mr. Coleman. I stuck at it, and when he said he was sometime secretary to the dutchess of York, I spoke in Latin to him, and asked whether he meant Mr. Coleman, and his answer I cannot remember. He sends an answer to this letter. I brought it to St. Omers and there it was inclosed in the letter from the society to Coleman; wherein the society expressly told him this letter was delivered and acknowledged. I saw the letter at St. Omers, and the letter was sent to him.

VOL. VII.

Mr. Coleman did acknowledge the receipt of this letter from La Chaise in the same hand with that of the news letter, and so it was understood by all. I saw it.

L. C. J. How came you to see it?

Oates. I by a patent from them was of the consult.

L. C. J. You saw the letter of the same hand which the news letter was of with Mr. Coleman's name subscribed?

Oates. The contents of the letter did own the letter from La Chaise was received; this letter was presumed to be the hand-writing of Mr. Coleman, and it was understood to be Mr. Coleman's letter.

L. C. J. You say the letter was thanks for the 10,000*l.* what was the other contents?

Oates. That all endeavours should be used to cut off the Protestant Religion root and branch.

L. C. J. You say you delivered this letter, from whom had you it?

Oates. From Fenwick, it was left in his hand, and he accompanied me from Groves to the coach, and gave it to me.

L. C. J. Did you hear him speak to Mr. Coleman to write for him?

Oates. Strange told me he had spoke to him.

L. C. J. He doth suppose it was Mr. Coleman's hand because it was just the same hand that the news letter was. Are you sure the letter was of his hand?

Oates. It was taken for his hand.

Justice Wild. Had he such a kinsman there?

Oates. Yes, he hath confessed it.

Att. Gen. We desire your lordship he may give an account of the consult here in May last, and how far Mr. Coleman was privy to the murdering of the king.

Oates. In the month of April old style in the month of May new stile, there was a consult held, it was begun at the White-Horse Tavern, it did not continue there. After that there they had consulted to send one Father Cary to be agent and procurator to Rome, they did adjourn themselves to several clubs in companies; some met at Wild-House, and some at Harcourt's lodging in Duke-street some met at Ireland's lodging in Russel-street; and some in Fenwick's lodging in Drury-Lane. They were ordered to meet by virtue of a brief from Rome, sent by the Father general of the society: They went on to these resolves, that Pickering and Groves should go on, and continue in attempting to assassinate the king's person by shooting, or other means. Groves was to have 1,500*l.* Pickering being a religious man was to have 30,000*Masses*, which at 12*d.* a mass amounted much what to that money. This resolve of the Jesuits was communicated to Mr. Coleman in my hearing at Wild-House. My Lord, this was not only so, but in several letters he did mention it; and in one letter (I think I was gone a few miles out of London) he sent to me by a messenger, and did desire.

C

the duke might be trepanned into this Plot to murder the king.

L. C. J. How did he desire it?

Oates. In a letter, that all means should be used for the drawing in the duke. This letter was written to one Ireland. I saw the Letter and read it.

L. C. J. How do you know it was his letter?

Oates. Because of the instructions, which I saw Mr. Coleman take a copy of and write, which was the same hand with the news letter, and what else I have mentioned, the subscription was, 'Recommend me to Father La Chaise?' and it was the same hand whereof I now speak.

L. C. J. What was the substance of the Letter?

Oates. Nothing but compliment, and recommendation, and that all means might be used for the trepanning the duke of York (as near as I can remember that was the word).

Just. Wild. You did say positively that Mr. Coleman did consent and agree to what was consulted by the Jesuits, which was to kill the king, and Pickering and Groves were the two persons designed to do it. Did you hear him consent to it?

Oates. I heard him say at Wild-House, he thought it was well contrived.

Recorder. Do the gentlemen of the jury hear what he saith?

L. C. J. Gentlemen of the jury, do you hear what he saith?

Jury. Yes.

Att. Gen. What do you know of any rebellion to have been raised in Ireland? and what was to be done with the duke of Ormond?

Oates. In the month of August there was a consult with the jesuits, and with the Benedictine monks at the Savoy. In this month of August there was a letter writ from archbishop Talbot, the titular archbishop of Dublin; wherein he gave an account of a legate from the pope, an Italian bishop, (the bishop of Cas-say I think) who asserted the pope's right to the kingdom of Ireland. In this letter (to mention in special) there were four jesuits had contrived to dispatch the duke of Ormond, these were his words, 'To find the most expedient way for his death,' and Fogarthy was to be sent to do it by poison, if these four good Fathers did not hit of their design. My Lord, Fogarthy was present. And when the consult was almost at a period, Mr. Coleman came to the Savoy to the consult, and was mighty forward to have Father Fogarthy sent to Ireland to dispatch the Duke by poison. This letter did specify they were there ready to rise in rebellion against the king for the pope.

Att. Gen. Do you know any thing of arms?

Oates. There were 40,000 black bills, I am not so skilful in arms to know what they meant (military men know what they are) that were provided to be sent into Ireland; but they were ready for the use of the catholic party.

L. C. J. Who were they provided by?

Oates. I do not know.

L. C. J. How do you know they were provided?

Oates. That letter doth not mention who they were provided by, but another letter mentioned they were provided by those that were commission officers for the aid and help of the pope; the popish commissioners they were provided by, and they had them ready in Ireland.

L. C. J. Who wrote this letter?

Oates. It came from Talbot, I might forget the day of the month because my information is so large, but it was the former part of the year, I think either January or February, 1667-8, last January or February.

L. C. J. Was this consult but in August last?

Oates. I am forced to run back from that consult to this; Mr. Coleman was privy, and was the main agent, and did in the month of August last past say to Fenwick, he had found a way to transmit the 200,000*l.* for the carrying on of this rebellion in Ireland.

L. C. J. Did you hear him say so?

Oates. I did, a week before.

L. C. J. You say he was very forward to send Fogarthy into Ireland to kill the duke of Ormond?

Oates. Yes, that I say; and that he had found a way to transmit 200,000*l.* to carry on the rebellion in Ireland.

Court. Who was by besides Fenwick?

Oates. Myself and nobody else.

Court. Where was it said?

Oates. In Fenwick's chamber in Drury-lane.

Att. Gen. Do you know any thing of transmitting the money to Windsor, or persuading any to be sent thither, and the time when?

Oates. In the month of August there were four ruffians procured by Dr. Fogarthy. These four were not nominated in the consult with the Benedictine Convent, but, my Lord, these four ruffians without names were accepted of by them.

Court. Who proposed them?

Oates. Fogarthy. These four Irishmen were sent that night to Windsor. How they went I know not, but the next day there was a provision of 80*l.* ordered to them by the rector of London, which is a jesuit, one William Harcourt, in the name of the provincial, because he acted in his name and authority, the provincial being then beyond the seas, visiting his colleges in Flanders.

L. C. J. Did he order the 80*l.*

Oates. Mr. Coleman came to this Harcourt's house, then lying in Duke street, and Harcourt was not within; but he was directed to come to Wild-house, and at Wild-house he found Harcourt.

L. C. J. How do you know that?

Oates. He said he had been at his house, and was not within; finding him at Wild-house, he asked what care was taken for those four

gentlemen that went last night to Windsor? He said there was 80*l.* ordered.

L. C. J. Who said so?

Oates. Harcourt. And there was the messenger that was to carry it. I think the most part of this 80*l.* was in guineas: Mr. Coleman gave the messenger a guinea to be nimble, and to expedite his journey.

L. C. J. How know you they were guineas?

Oates. I saw the money upon the table before Harcourt, not in his hand.

L. C. J. Were the four Irishmen there?

Oates. No, they were gone before I came.

L. C. J. Who was to carry it after them, what was his name?

Oates. I never saw him before or since. The money was upon the table when Mr. Coleman came in, he gave the messenger a guinea to expedite the business.

Recorder. You say Mr. Coleman enquired what care was taken for those ruffians that were to assassinate the king; pray, Mr. Oates, tell my Lord, and the jury, what you can say concerning Mr. Coleman's discourse with one Ashby.

Oates. In the month of July, one Ashby, who was sometime Rector of St. Omers, being ill of the gout was ordered to go to the bath; this Ashby being in London, Mr. Coleman came to attend him; this Ashby brought with him treasonable instructions, in order to dispatch the king by poison, provided Pickering and Groves did not do the work: 10,000*l.* should be proposed to sir George Wakeman to poison the king, in case pistol and stab did not take effect, and opportunity was to be taken at the king's taking physic. I could give other evidence, but will not, because of other things which are not fit to be known yet.

L. C. J. Who wrote this letter?

Oates. It was under hand of White the provincial beyond the seas, whom Ashby left; it was in the name of memorials to empower Ashby and the rest of the consulters at London to propound 10,000*l.* to sir George Wakeman to take the opportunity to poison the king. These instructions were seen and read by Mr. Coleman, by him copied out, and transmitted to several conspirators of the king's death, in this kingdom of England, that were privy to this plot.

Recorder. Know you of any commission? We have hitherto spoken altogether of the work of others; now we come to his own work a little nearer.

L. C. J. Who saw Mr. Coleman read these instructions? What said he?

Oates. He said he thought it was too little, I heard him say so.

L. C. J. Did you see him take a copy of these instructions?

Oates. Yes, and he said he did believe sir George Wakeman would scarce take it, and thought it necessary the other 5,000*l.* should be added to it, that they might be sure to have it done.

L. C. J. Where was it he said this?

Oates. It was in the provincial's chamber, which Ashby had taken for his convenience at London, until he went down to the bath; it was at Wild-house, at Mr. Sanderson's house.

L. C. J. Ashby was employed by his instructions to acquaint the consult of the jesuits, that there should be 10,000*l.* advanced, if Dr. Wakeman would poison the king, now Ashby comes and acquaints him with it. Why should Coleman take copies?

Oates. Because he was to send copies to several conspirators in the kingdom of England.

L. C. J. To what purpose should Mr. Coleman take a copy of these instructions?

Oates. The reason is plain; they were then a gathering a contribution about the kingdom, and these instructions were sent that they might be encouraged, because they saw there was encouragement from beyond seas to assist them. And another reason was, because now they were assured by this, their business would quickly be dispatched, and by this means some thousands of pounds were gathered in the kingdom of England.

L. C. J. To whom was Mr. Coleman to send them?

Oates. I know not of any persons, but Mr. Coleman did say he had sent his suffrages (which was a canting word for instructions) to the principal gentry of the catholics of the kingdom of England.

L. C. J. How know you this, that Mr. Coleman did take a copy of these instructions for that purpose, as you say?

Oates. Because he said so.

L. C. J. Did any body ask him why he took them?

Oates. Saith Ashby, You had best make haste and communicate these things. Mr. Coleman answered, I will make haste with my copies, that I may dispatch them away this night.

Recorder. Was he not to be one of the principal secretaries of state?

Oates. In the month of May last New Stile, April Old Stile, I think within a day after our consult, I was at Mr. Langhorn's chamber, he had several commissions, which he called patents: Among his commissions, I saw one from the general of the society of Jesus Joannes Paulus D'Oliva, by virtue of a brief from the pope, by whom he was enabled.

L. C. J. Did you know his hand?

Oates. I believe I have seen it forty times, I have seen forty things under his hand, and this agreed with them, but I never did see him write in my life; we all took it to be his hand and we all knew the hand and seal.

L. C. J. What inscription was upon the seal?

Oates. I.H.S. with a cross, in English it had the characters of I. H. S. This commission to Mr. Coleman in the month of July, I saw in Fenwick's presence, and at his chamber in Drury-lane, where then Mr. Coleman did acknowledge the receipt of this patent, opened it, and said, It was a very good exchange.

L. C. J. What was the commission for?

Oates. It was to be secretary of state. I saw the commission, and heard him own the receipt of it.

Justice Wild. What other commissions were there at Mr. Langhorn's chamber?

Oates. A great many, I cannot remember, there was a commission for my lord Arundel of Warder, the lord Powis, and several other persons. But this belongs not to the prisoner at the bar: I mention his commission.

L. C. J. Were you acquainted with Mr. Langhorn?

Oates. Yes, I will tell your lordship how I was acquainted. I was in Spain, he had there two sons; to shew them special favour and kindness (being mere strangers at the College) I did use to transmit some letters for them to the kingdom of England in my packet. When I came out of Spain, I did receive recommendations from them to their father, and in great civility he received me. This was in November that I came to his house. He lived in Shear-lane, or thereabouts. I understood that his wife was a zealous protestant; therefore he desired me not to come any more to his house, but for the future to come to his chamber in the Temple.

L. C. J. Had you ever seen Mr. Langhorn in London before?

Oates. I never saw him till Nov. 1677 to my knowledge. I was several times in his company at his chamber, and he brought me there to shew me some kindness upon the account of his sons. It was at the Temple, for his wife being a protestant, was not willing any Jesuits should come to the house. I was to carry him a summary of all the results and particulars of the consult at the White-horse and Wild-house. The provincial ordered me to do it, he knowing me, being in that affair often employed.

L. C. J. Was it the second time you saw him, that you saw the commissions?

Oates. I saw him several times in the month of November.

L. C. J. When did you see the commissions?

Oates. In the month of April, Old Stile; May, New Stile.

L. C. J. How came he to shew you the commissions?

Oates. I hearing of their being come, had a curiosity to see them, and he knew me to be privy to the concerns.

L. C. J. How did you know he had the commissions?—*Oates.* By letters.

L. C. J. From whom?

Oates. From those of the society at Rome, wherein one Harcourt, one of the fathers, was certified, that the commissions were come to Langhorn, and were in his hand; I saw the letters at St. Omers, before they came to Harcourt, we read the letters there before they came to England. I had power to open them.

L. C. J. Did you open the letters?

Oates. Yes.

L. C. J. When saw you the letters at St. Omers?

Oates. I saw the letters at St. Omers in the month of January; then they came from Rome, and after I received summons to be at this consult in the month of April; and accordingly we came over.

L. C. J. What time did you come over?

Oates. In the month of April.

L. C. J. What time went you to Langhorn's chamber? I cannot reconcile the months together.

Just. Dolben. Did you not say you came to Langhorn in November?

Oates. Yes, before I went to St. Omers.

Just. Wild. How many came over with you?

Oates. I cannot tell how many came over together; there were nine of us, all Jesuits.

L. C. J. Did not you say you went to Langhorn in November?

Oates. That was before I went to St. Omers.

Att. Gen. Tell how many priests or Jesuits were lately in England, that you know of, at one time?

Oates. There was, and have been to my knowledge in the kingdom of England, secular priests eightscore, and Jesuits fourscore, and by name in the catalogue, I think 300 and odd.

L. C. J. How long had you been in England before you were at Mr. Langhorn's chamber?

Oates. Not long; because I had letters in my packet from his sons, as soon as I had rested a little, I went to him.

L. C. J. What said Mr. Langhorn to you about the commissions in his chamber?

Oates. Not a word; but seemed glad.

L. C. J. Did you see them open upon his table? or did you ask to see them?

Oates. They did not lie open upon the table, but the commissions were before him; I asked to see them. Mr. Langhorn (said I) I hear you have received the commissions from Rome; he said, he had. Shall I have the honour to see some of them? He said I might; he thought he might trust me; and so he might, because that very day I gave him an account of the consult.

L. C. J. When was it you gave him an account of the consult?

Oates. In the morning.

L. C. J. You say you were twice there that day.—*Oates.* I was there the whole forenoon.

L. C. J. That day you saw the commissions?

Oates. I had been there several times the same day, and meeting him at last, he asked me how often I was there before, I said twice or thrice; but that day was the last time I ever saw him; I have not seen him since, to my knowledge.

L. C. J. Was that the first time that you saw him after you came from Spain?

Oates. I saw him thrice in November, then I went to St. Omers, the first time I saw him after I came from thence, I saw the commissions.

Att. Gen. What were the names of those men that came over from St. Omers besides yourself?

Oates. As near as I can remember, the rector of Liege was one; Father Warren; sir Thomas Preston; the rector of Watton; one Francis Williams; sir John Warner, bart.; one Father Charges; one Pool, a monk; I think I made the ninth.

Att. Gen. If the prisoner at the bar be minded; he may ask him any question.

Pris. I am mighty glad to see that gentleman sir Thomas Dolman in the Court, for I think he was upon my Examination before the council, and this man that gives now in evidence against me, there told the king, he never saw me before; and he is extremely well acquainted with me now, and hath a world of intimacy. Mr. Oates at that time gave such an account of my concern in this matter, that I had orders to go to Newgate, I never saw Mr. Oates since I was born, but at that time.

L. C. J. You shall have as fair a search and examination in this matter for your life as can be, therefore, Mr. Oates, answer to what Mr. Coleman saith.

Oates. My lord, when Mr. Coleman was upon his examination before the council board, he saith, I said there that I never saw him before in my life, I then said I would not swear that I had seen him before in my life, because my sight was bad by candle-light, and candle-light alters the sight much, but when I heard him speak I could have sworn it was he, but it was not then my business. I cannot see a great way by candle-light.

L. C. J. The stress of the objection lieth not upon seeing so much, but how come you that you laid no more to Mr. Coleman's charge at that time?

Oates. I did design to lay no more to his charge then, than was matter for information. For prisoners may supplant evidence when they know it, and bring persons to such circumstances, as time and place. My lord, I was not bound to give in more than a general information against Mr. Coleman; Mr. Coleman did deny he had correspondence with Father La Chaise at any time, I did then say he had given him an account of several transactions. And (my Lord) then was I so weak, being up two nights, and having been taking prisoners, upon my salvation, I could scarce stand upon my legs.

L. C. J. What was the information you gave at that time to the council against Mr. Coleman?

Oates. The information I gave at that time (as near as I can remember, but I would not trust to my memory) was for writing of new-letters, in which I did then excuse the treasonable reflections, and called them base reflections at the Council-Board; the king was sensible, and so was the council. I was so wearied and tired (being all that afternoon before the council, and Sunday night, and sitting up night after night) that the king was willing to discharge me. But if I had been urged I should have made a larger information.

L. C. J. The thing you accused him of was his own letter.

Pris. He doth not believe it was my letter.

L. C. J. You here charge Mr. Coleman to be the man that gave a guinea to expedite the business at Windsor, &c. At the time when you were examined at the council-table, you gave a particular account of attempting to take away the king's life at Windsor, and raising 20,000*l.* and all those great transactions; why did you not charge Mr. Coleman to be the man that gave the guinea to the messenger to expedite the business, when the 80*l.* was sent? That he found out a way of transmitting 200,000*l.*, to carry on the design? He consulted the killing the king, and approved of it very well. And of the instructions for 10,000*l.*, he said it was too little for to poison the king. When you were to give an account to the council of the particular contrivance of the murder of the king at Windsor, with a reward, you did mention one reward of 10,000*l.* to Dr. Wakeman, and would you omit the guinea to expedite the messenger, and that he said that 10,000*l.* was too little; would you omit all this?

Oates. I being so tired and weak that I was not able to stand upon my legs, and I remember the council apprehended me to be so weak that one of the lords of the council said, that if there were any occasion further to examine Mr. Coleman, that Mr. Oates should be ready again, and bid me retire.

L. C. J. You was by when the council were ready to let Mr. Coleman go almost at large?

Oates. No; I never apprehended that, for if I did, I should have given a further account.

L. C. J. What was done to Mr. Coleman at that time? Was he sent away prisoner?

Oates. Yes, at that time to the messenger's house, and within two days after he was sent to Newgate, and his papers were seized.

L. C. J. Why did you not name Coleman at that time?

Oates. Because I had spent a great deal of time in accusing other Jesuits.

Just. Wild. What time was there betwixt the first time you were at the council, before you told of this matter concerning the king?

Oates. When I was first at the board (which was on Saturday night) I made information, which began between 6 and 7, and lasted almost to 10. I did then give a general account of the affairs to the council without the king. Then I went and took prisoners, and before Sunday night, I said, I thought if Mr. Coleman's Papers were searched into, they would find matter enough against him in those papers to hang him: I spake those words, or words to the like purpose. After that Mr. Coleman's Papers were searched, Mr. Coleman was not to be found; but he surrendered himself the next day. So that on Sunday I was commanded to give his majesty a general information, as I had given to the council on Saturday; and the next day again, I took prisoners that night 5, and next night 4.

Just. Wild. How long was it betwixt the time that you were examined, and spoke only as to the letters, to that time you told to the

king and council, or both of them, concerning this matter you swear now?

Oates. My Lord, I never told it to the king and council, but I told it to the houses of parliament.

L. C. J. How long was it between the one and the other?

Oates. I cannot tell exactly the time; it was when the parliament first sat.

L. C. J. How came you (Mr. Coleman being so desperate a man as he was, endeavouring the killing of the king) to omit your information of it to the council and to the king at both times?

Oates. I spoke little of the persons till the persons came face to face.

L. C. J. Why did you not accuse all those Jesuits by name?

Oates. We took a catalogue of their names, but those I did accuse positively and expressly we took up.

L. C. J. Did you not accuse sir George Wakeman by name, and that he accepted his reward?

Oates. Yes, then I did accuse him by name.

L. C. J. Why did you not accuse Mr. Coleman by name?

Oates. For want of memory; being disturbed and wearied in sitting up two nights, I could not give that good account of Mr. Coleman, which I did afterwards, when I consulted my Papers; and when I saw Mr. Coleman was secured, I had no need to give a farther account.

L. C. J. How long was it between the first charging Mr. Coleman, and your acquainting the parliament with it?

Oates. From Monday the 30th of September, until the parliament sat.

L. C. J. Mr. Coleman, will you ask him any thing?

Pris. Pray ask Mr. Oates, whether he was not as near to me as this gentleman is, because he speaks of his eyes being bad?

Oates. I had the disadvantage of a candle upon my eyes; Mr. Coleman stood more in the dark.

Pris. He names several times that he met with me; in this place and that place, a third and fourth place about business.

Oates. He was altered much by his periwig in several meetings, and had several periwigs, and a periwig doth disguise a man very much; but when I heard him speak, then I knew him to be Mr. Coleman.

L. C. J. Did you hear him speak? How were the questions asked? Were they thus? Was that the person? Or, how often had you seen Mr. Coleman?

Oates. When the question was asked by my lord chancellor, Mr. Coleman, when were you last in France? He said, At such a time. Did you see father La Chaise? He said he gave him an accidental visit. My lord chancellor asked him whether or no he had a pass? He said, No. Then he told him, that was a fault for going out of the kingdom without a pass. Have

you a kinsman whose name is Playford, at St. Omers? He said he had one ten years old, (who is in truth sixteen) That question I desired might be asked. Then the king bade me go on.

L. C. J. Did the king, or council, or lord chancellor ask you whether you knew Mr. Coleman, or no?

Oates. They did not ask me.

L. C. J. Mr. Oates, Answer the question in short and without confounding it with length. Were you demanded, if you knew Mr. Coleman?

Oates. Not to my knowledge.

L. C. J. Did you ever see him, or how often?

Pris. He said, he did not know me.

L. C. J. You seemed, when I asked you before, to admit, as if you had been asked this question, how often you had seen him, and gave me no answer, because you were doubtful whether it was the man, by reason of the inconveniency of the light, and your bad sight.

Oates. I must leave it to the king what answer I made Mr. Coleman; he wonders I should give an account of so many intimacies, when I said I did not know him at the council-table.

Pris. It is very strange Mr. Oates should swear now, that he was so well acquainted with me, and had been so often in my company, when upon his accusation at the council-table, he said nothing of me more than the sending of one letter, which he thought was my hand.

Oates. I did not say that.

Pris. And he did seem to say there, he never saw me before in his life.

L. C. J. Was he asked whether he was acquainted with you? (for those words are to the same purpose.)

Pris. I cannot answer directly, I do not say he was asked, if he was acquainted with me, but I say this, that he did declare he did not know me.

L. C. J. Can you prove that?

Pris. I appeal to sir Tho. Dolman, who is now in Court, and was then present at the Council-table.

L. C. J. Sir Thomas, you are not upon your oath, but are to speak on the behalf of the prisoner: What did he say?

Sir Tho. Dolman. That he did not well know him.

L. C. J. Did he add, that he did not well know him by the candle-light? But Mr. Oates, when you heard his voice, you said you knew him; why did you not come then, and say you did well know him?

Oates. Because I was not asked.

L. C. J. But, sir Thomas, did he say he did not well know him after Mr. Coleman spake? Was Mr. Coleman examined before Mr. Oates spake?—*Sir T. Dolman.* Yes.

L. C. J. Mr. Oates, you say you were with him at the Savoy and Wild House, pray, sir Thomas, did he say he did not know him, or had seen Mr. Coleman there?

Sir T. Dolman. He did not know him as he stood there.

L. C. J. Knowing, or not knowing, is not

the present question; but did he make an answer to the knowing or not knowing him?

Just. Dolbin. Did he say he did not well know Mr. Coleman, or that he did not well know that man?

Sir T. Dolman. He said he had no acquaintance with that man (to the best of my remembrance).

L. C. J. Sir Robert Southwell, you were present at Mr. Oates his examination before the Council; in what manner did he accuse Mr. Coleman then?

Sir R. Southwell. The question is so particular, I cannot give the Court satisfaction; but other material things then said are now omitted by Mr. Oates; for he did declare against sir George Wakeman, that 5,000*l.* was added, in all 15,000*l.*, and that Mr. Coleman paid five of the fifteen to sir George in hand.

L. C. J. This answers much of the objection upon him. The Court has asked Mr. Oates how he should come now to charge you with all these matters of poisoning and killing the king, and yet he mentioned you so slightly at the Council-table; but it is said by sir Robert Southwell he did charge you with 5,000*l.* (for poisoning the king) to be added to the 10,000*l.*, and he charged you expressly with it at the Council-table.

Pris. The charge was so slight against me by Mr. Oates, that the council were not of his opinion: For the first order was to go to Newgate, and sir R. Southwell came with directions to the messenger not to execute the order. I humbly ask whether it was a reasonable thing to conceive that the council should extenuate the punishment, if Mr. Oates came with such an amazing account to the council.

Sir R. South. Mr. Oates gave so large and general an information to the council, that it could not easily be fixed. Mr. Coleman came voluntarily in upon Monday morning. The warrant was sent out on Sunday night for Mr. Coleman and his papers; His papers were found and seized, but Mr. Coleman was not found at that time nor all night, but came on Monday morning voluntarily, and offered himself at sir Joseph Williamson's house, hearing there was a warrant against him: By reason of so many prisoners that were then under examination, he was not heard till the afternoon, and then he did with great indignation and contempt hear these vile things, as thinking himself innocent.

Pris. If I thought myself guilty, I should have charged myself: I hope his majesty, upon what hath been said, will be so far satisfied as to discharge me.

Sir R. South. Mr. Coleman then made so good a discourse for himself, that though the lords had filled up a blank warrant to send him to Newgate, that was respited, and he was only committed to a messenger. I did say to the messenger, Be very civil to Mr. Coleman, for things are under examination, but you must keep him safely. Saith the messenger, Pray let me have a special warrant, that doth dis-

pense with the warrant I had to carry him to Newgate, and such a warrant he had. The king went away on Tuesday morning to Newmarket, and appointed a particular committee to examine the papers brought of Mr. Coleman and others. His papers were found in a deal box, and several of these papers and declarations sounded so strange to the lords, that they were amazed; and presently they signed a warrant for Mr. Coleman's going to Newgate.

L. C. J. Did Mr. Oates give a round charge against Mr. Coleman?

Sir R. South. He had a great deal to do, he was to repeat in the afternoon on Sunday when the king was present, all he had said to the lords on Saturday. He did say of Mr. Coleman, that he had corresponded very wickedly and basely with the French king's confessor, and did believe if Mr. Coleman's papers were searched, there would be found in them that which would cost him his neck. And did declare that the 15,000*l.* was accepted for the murder of the king, and that 5,000*l.* was actually paid by Mr. Coleman to sir George Wakeman. But Mr. Oates at the same time did also declare that he did not see the money paid, he did not see this particular action of sir George Wakeman, because at that time he had the stone, and could not be present.

Oates. I was not present at that consult where the 15,000*l.* was accepted, but I had an account of it from those that were present.

L. C. J. It appears plainly by this testimony, that he did charge you Mr. Coleman home, that 15,000*l.* was to be paid for poisoning the king; and that it was generally said among them (though he did not see it paid) that it came by your hands, viz. 5,000*l.* of it; which answers your objection as if he had not charged you, when you see he did charge you home then for being one of the conspirators, in having a hand in paying of money for poisoning the king: he charges you now no otherwise than in that manner: he doth not charge you now as if there were new things started, but with the very conspiracy of having a hand in paying the money for murdering the king. What consultation was that you had at the Savoy, in the month of August?

Oates. It was about the business of the four Irish ruffians proposed to the consult.

The End of Mr. Oates's Examination.

Mr. Bedlow's^a Examination.

Sir Francis Winnington, (Sol. Gen.) We will call him to give an account what he knows of the prisoner's being privy to the conspiracy of murdering the king (particularly to that). Mr. Bedlow, pray acquaint my lord and the jury what you know, I desire to know particularly as it concerns Mr. Coleman, and nothing but Mr. Coleman.

^a See the Examinations of this witness taken before a Committee of the House of Lords, and in his last sickness before Chief Justice North, vol. 6, p. 1498.

L. C. J. Mr. Attorney, pray keep to that question close.

Att. Gen. I have two short questions to ask him: the first is, what he hath seen or heard touching any commission to Mr. Coleman, what say you?

Mr. Bedlow. In particular I know not of any commission directed to Mr. Coleman, I do not know any thing of it but what sir Henry Tichbourn told me, that he had a commission, and he brought a commission for Mr. Coleman and the rest of the lords, from the principal Jesuits at Rome, by order of the pope.

Att. Gen. A commission for what?

Bedlow. To be principal secretary of state: the title of it I do not know because I did not see it, but to be principal secretary of state, that was the effect.

Att. Gen. I desire to know what discourse you had with Mr. Coleman about that design.

Bedlow. If your lordship please, I shall be short in the narrative.

L. C. J. Make use of your notes to help your memory, but let not your testimony be merely to read them.

Bedlow. I carried over to M. La Chaise (the French king's confessor) a large packet of letters, April 1675, from Mr. Coleman, which letters I saw Mr. Coleman deliver to Father Harcourt, at his house in Duke-Street.

Council. And Harcourt gave them to you?

Bedlow. Yes; which letters were directed to be delivered to M. La Chaise, and I did carry them to La Chaise, and brought him an answer from La Chaise, and other English monks at Paris: I did not understand what was in it, because it was a language I do not well understand; it was about carrying on the Plot; at a consultation there were present two French abbots and several English monks at Paris; what I heard them say, was about carrying on the Plot to subvert the government of England, to destroy the king and the lords of the council. The king was principally to be destroyed, and the government subverted as well as the Protestant religion.

Court. When was this? when you were to receive the answer?

Bedlow. It was upon the consultation: there was a packet of letters from Mr. Coleman, they did not know I understood French, or if they did, they had tried me so long I believe they would have trusted me.

L. C. J. The letter that La Chaise wrote, to whom was it directed?

Bedlow. It was directed to Mr. Coleman, the packet was directed to Harcourt, and within that La Chaise wrote an answer and directed it to Mr. Coleman, particularly to Mr. Coleman.

L. C. J. How do you know?

Bedlow. The Superscription was this [in French, A M. Coleman]. To Mr. Coleman; with other letters directed to Father Harcourt.

L. C. J. He saith plainly the letter was yours. You gave Harcourt a packet of letters to be delivered to La Chaise, Harcourt

delivered them to him, and he did carry them to La Chaise, and heard them talk about this Plot: that La Chaise wrote a letter to you (particularly by name) inclosed in a letter to Harcourt; that answer he brought back.

Recorder. Do you know any thing concerning any money Mr. Coleman said he had received? the sums, and for what?

Bedlow. It was to carry on the design to subvert the government of England, to free England from damnation and ignorance, and free all Catholics from hard tyranny and oppression of Heretics.

Att. Gen. What words did you hear Mr. Coleman express, what he would do for the Catholic cause?

Bedlow. May 24, or 25, 1677, I was at Mr. Coleman's with Mr. Harcourt, and received another packet from Mr. Harcourt, and he had it from Mr. Coleman.

L. C. J. You say, Mr. Coleman did give this packet to Harcourt?

Bedlow. Yes, and Harcourt delivered it to me to carry it to Paris to the English monks. I was to go by Doway to see if they were not gone to Paris before me.

L. C. J. And what did they say when you delivered the letters to the English monks?

Bedlow. They told me how much reward I deserved from the pope and the church, both here and in the world to come. I overtook three, and that night I went to Paris with them; and upon the consultation, 1677, I believe they sent the bishop of Tornes the substance of those letters; and not having a final Answer what assistance the Catholic party in England might expect from them, they were resolved to neglect their design no longer than that summer, having all things ready to begin in England.

Recorder. What did you hear Mr. Coleman say?

Bedlow. That he would adventure any thing to bring in the Popish religion: after the consultation, I delivered the letters to La Faire, and he brought them to Harcourt, he delivered the packet of letters to Harcourt, who was not well, but yet went and delivered them to Mr. Coleman, and I went as far as Mr. Coleman's house, but did not go in, but stayed over the way; but Harcourt went in, and after he had spoke with Mr. Coleman, he gave me a beck to come to him; and I heard Mr. Coleman say, If he had a hundred lives, and a sea of blood to carry on the cause, he would spend it all to further the cause of the Church of Rome, and to establish the Church of Rome in England: and if there was an hundred Heretical kings to be deposed, he would see them all destroyed.

L. C. J. Where was this?

Bedlow. At his own house.

L. C. J. Where?

Bedlow. Behind Westminster Abbey.

L. C. J. In what room?

Bedlow. At the foot of the stair-case.

L. C. J. Where were you then?

Bedlow. There, I was called in by Harcourt, and was as near to him as to my lord Duras. [My lord being heard by Mr. Bedlow in court.]

Pris. Did I ever see you in my life?

Bedlow. You may ask that question; but in the stone-gallery in Somerset-House, when you came from a consult, where were great persons, which I am not to name here; that would make the bottom of your Plot tremble: you saw me then.

Att. Gen. We did before acquaint you with something of the substance of the letters; we shall now acquaint you with something of the manner of finding them. Your lordship hath heard, Mr. Oates hath been examined before the council, and there it was said, Mr. Coleman's papers would make such a discovery (if they were looked into) as would be enough to hang him. I remember he said the Lords of the Council were pleased to order the papers to be seized; the execution of their warrant they committed to one Bradly, who was a messenger that attended the king and council; and I desire he may be called: he did find and seize as many papers as Mr. Coleman was pleased to leave, and they are those papers which we now bring before you. The papers seized he had put in a deal box, and four or five several bags, and brings them to the council; the clerks of the council are here attending the Court: they will tell you these papers now produced were papers found in those bags: Mr. Bradly will tell you, the papers seized in the bags and box were brought to them, and they will swear they were the papers and bags that were brought.

Record. Mr. Bradly, give my lord and the jury an account whether you went to Mr. Coleman, whether you seized his papers, and what papers you saw, and how you disposed of them after they were seized.

Bradly. The 29th of September being Sunday evening at six of the clock, I received a warrant from the council-board to apprehend Mr. Coleman, and to seize his papers, and to bring them to the council-board: He being not at home, I spoke with his wife, and told her I came to search her house, I had a warrant so to do. She told me I was welcome; I desired her to send for her husband: I found in several parts of the house a great many papers; I put them up in several bags: I found some in a private corner in a deal box.

L. C. J. What kind of corner?

Bradly. In Mr. Coleman's chamber, not in his own study, but in another place behind the chimney; the box was tacked together with a nail: I lifted it up, and saw they were letters, I put it down again as it was, and gave it into the custody of one that was with me, to look into it; Then I came to his own study, where his scrutore was, and put up all I could find in several bags, and sealed them, and brought them to the council-chamber.

Att. Gen. Did you put up any other papers among them than what you found at Mr. Coleman's house?

VOL. VII.

Bradly. I did not, (upon my oath) I had them all at Mr. Coleman's house.

Att. Gen. Did you bring them all to the clerks of the council?

Bradly. Yes. Before I came out I tied them all up, and sealed them with my own seal, and was constantly with them.

Att. Gen. Now we will give your lordship an account how these things were received, that were there found. Sir Robert Southwell, look upon the large letter, and tell my lord and the jury whether that were among the papers brought by this messenger.

Sir R. Southwell. My lord, I did not see this letter in several days after the papers brought me from Bradly; when he came in with three great bags, and a box of letters on Sunday night, said I, which are Mr. Coleman's principal papers? Said he, those that are in the large speckled cloth-bag; for these we took first in the scrutore: These I took, and meddled not with the other. I presume other clerks of the council can give a particular account where this paper was found.

Att. Gen. Sir Thomas Dolman, look upon the letter, whether you can remember any thing of it.

Sir T. Dolman. I remember I found it in a deal box among Mr. Coleman's papers, those that Bradly brought.

Court. That is plain enough.

Att. Gen. That we may not often prove what we shall often make use of, I would prove it fully once for all, that all these papers were of his hand-writing; this we can prove by two sorts of evidences; his own confession, and the witness of two persons; one that was his servant: and the other a sub-secretary, that did write very many things for him. Mr. Boatman, look upon these papers; Tell my lord and the jury whose hand it is; Are you acquainted with Mr. Coleman's hand? What relation had you to him?

Boatman. I was his gentleman that waited on him in his chamber five years: This is very like his hand.

L. C. J. Do you believe it is his hand?

Boatman. I believe it is.

L. C. J. Little proof will serve the turn, because they were taken in his possession.

Att. Gen. I desire to prove it fully; look upon all the papers, turn all the leaves, see if they be not all one hand, and whether you believe all to be Mr. Coleman's hand-writing or not?

Boatman. I believe it to be all his hand.

L. C. J. Do you know when the last packet of letters came up, that were sent to Mr. Coleman, from beyond the seas?

Boatman. Two or three days after he was taken prisoner.

L. C. J. Do you know where they are bestowed? Did you receive M. la Chaise's letters for Mr. Coleman?

Boatman. Yes.

L. C. J. Did you ever write any for him to la Chaise?—*Boatman.* No.

D

Att. Gen. Inform the court whether he kept any book to make entry of letters he sent or received?

Boatman. Yes, there was a large book my master did enter his letters in, and his news.

Att. Gen. What is become of that book?

Boatman. I know not.

Att. Gen. When did you see that book last, upon your oath?

Boatman. On Saturday.

Att. Gen. How long before he was sent to prison?

Boatman. Two days, because the next day was Sunday, when he did not make use of it: On Monday my master was in prison, and I did not mind the book.

L. C. J. Were there any entries of letters in that book within two years last past?

Boatman. I cannot be positive.

Att. Gen. Did he not usually write and receive letters from beyond sea? Till that time had he not negotiation as usually?

Boatman. He had usually news every post from beyond the seas.

Pris. There is letters from the Hague, Brussels, France and Rome; they are all with the council, which were all the letters I received.

Att. Gen. We have another witness: Cat-taway, are you acquainted with Mr. Coleman's hand writing? Do you believe it to be his hand writing?

Witness. I believe it is, they are his hand-writing.

Att. Gen. It will appear, if there were no other proof in this cause, his own papers are as good as an hundred witnesses to condemn him: Therefore I desire to prove them fully by his own confession.

Sir Phil. Lloyd, a witness. These are the papers I received from sir Thomas Dolman; I found them (as he saith) in a deal box; Among his papers I found this letter. Mr. Coleman hath owned this was his hand-writing; it is all one letter.

Att. Gen. It is all the same hand, and he acknowledged it to be his.

Mr. Recorder. I desire Mr. Astrey may read it so that the Jury may hear it.

Mr. Astrey, Clerk of the Crown, reads the letter.

The 29th of September (1675.) It is subscribed thus; "Your most humble and most obedient Servant," but no name.

MR. COLEMAN'S Long Letter.

"Since Father St. German has been so kind to me, as to recommend me to your reverence so advantageously, as to encourage you to accept of my correspondency; I will own to him that he has done me a favour without consulting me, greater than I could have been capable of if he had advised with me; because I could not then have had the confidence to have permitted him to ask it on my behalf. And I am so sensible of the honour you are pleased to do me, that though I cannot

deserve it, yet to shew at least the sense I have of it, I will deal as freely and openly with you this first time, as if I had had the honour of your acquaintance all my life; and shall make no apology for so doing, but only tell you that I know your character perfectly well, though I am not so happy as to know your person; and that I have an opportunity of putting this letter into the hands of Father St. German's nephew (for whose integrity and prudence he has undertaken) without any sort of hazard.

"In order then, sir, to the plainness I profess, I will tell you what has formerly passed between your reverence's predecessor, Father Ferrier, and myself. About three years ago, when the king my master sent a troop of horseguards into his most Christian majesty's service, under the command of my lord Dürass, he sent with it an officer called sir William Throckmorton, with whom I had a particular intimacy, and who had then very newly embraced the Catholic religion: to him did I constantly write, and by him address myself to Father Ferrier. The first thing of great importance I presumed to offer him (not to trouble you with lesser matters, or what passed here before, and immediately after the fatal revocation of the king's declaration for liberty of conscience, to which we owe all our miseries and hazards,) was in July, August, and September 1673, when I constantly inculcated the great danger Catholic religion and his most Christian majesty's interest would be in a tour next sessions of parliament, which was then to be in October following; at which I plainly foresaw that the king my master would be forced to something in prejudice to his alliance with France, which I saw so evidently and particularly that we should make peace with Holland; that I urged all the arguments I could, which to me were demonstrations, to convince your court of that mischief; and pressed all I could to persuade his most Christian majesty to use his utmost endeavour to prevent that session of our parliament, and proposed expedients how to do it: but I was answered so often and so positively, that his most Christian majesty was so well assured by his ambassador here, our ambassador there, the lord Arlington, and even the king himself; that he had no such apprehensions at all, but was fully satisfied of the contrary, and looked upon what I offered as a very zealous mistake, that I was forced to give over arguing, though not believing as I did; but confidently appealed to time and success to prove who took their measures rightest. When it happened what I foresaw came to pass, the good Father was a little surprized, to see all the great men mistaken, and a little one in the right; and was pleased by sir William Throckmorton to desire the continuance of my correspondence, which I was mighty willing to comply with, knowing the interest of our king, and in a more particular manner of my more immediate master the duke, and his most Christian majesty, to be so inseparably united,

that it was impossible to divide them, without destroying them all: upon this I shewed that our parliament in the circumstances it was managed, by the timorous counsels of our ministers, who then governed, would never be useful either to England, France, or Catholic religion, but that we should as certainly be forced from our neutrality at their next meeting, as we had been from our active alliance with France the last year: that a peace in the circumstances we were in, was much more to be desired than the continuance of the war; and that the dissolution of our parliament would certainly procure a peace; for that the confederates did more depend upon the power they had in our parliament, than upon any thing else in the world; and were more encouraged from them to the continuing of the war; so that if they were dissolved, their measures would be all broken, and they consequently in a manner necessitated to a peace.

"The good father minding this discourse somewhat more than the court of France thought fit to do my former, urged it so home to the king, that his majesty was pleased to give him orders to signify to his royal highness my master, that his majesty was fully satisfied of his royal highness's good intention towards him, and that he esteemed both their interests but as one and the same; that my lord Arlington and the parliament were both to be looked upon as very unuseful to their interest: That if his royal highness would endeavour to dissolve this parliament, his most christian majesty would assist him with his power and purse, to have a new one as should be for their purpose. This, and a great many more expressions of kindness and confidence, Father Ferrier was pleased to communicate to sir William Throckmorton, and commanded him to send them to his royal highness, and withal to beg his royal highness to propose to his most christian majesty, what he thought necessary for his own concern, and the advantage of religion, and his majesty would certainly do all he could to advance both or either of them. This sir William Throckmorton sent to me by an express, who left Paris the 2d of June 1674, *Stilo novo*: I no sooner had it, but I communicated it to his R. H. To which his R. H. commanded me to answer, as I did on the 29th of the same month: That his R. H. was very sensible of his most christian majesty's friendship, and that he would labour to cultivate it with all the good offices he was capable of doing for his majesty; that he was fully convinced that their interests were both one, that my lord Arlington and the parliament were not only unuseful, but very dangerous both to England and France: that therefore it was necessary that they should do all they could to dissolve it. And that his royal highness's opinion was, that if his most christian majesty would write his thoughts freely to the king of England upon this subject and make the same proffer to his majesty of his purse to dissolve this parliament, which he had made to his royal highness to call another, he did believe

it very possible for him to succeed, with the assistance we should be able to give him here; and that if this parliament were dissolved, there would be no great difficulty of getting a new one, which would be more useful: the constitutions of our parliaments being such; that a new one can never hurt the crown, nor an old one do it good.

"His royal highness being pleased to own these propositions, which were but only general, I thought it reasonable to be more particular, and come closer to the point, that we might go the faster about the work, and come to some resolution before the time was too far spent.

"I laid this for my maxim: the dissolution of our parliament will certainly procure a peace; which proposition was granted by every body I conversed withal, even by M. Rouvigny himself, with whom I took liberty of discoursing so far, but durst not say any thing of the intelligence I had with father Ferrier. Next; that a sum of money certain, would certainly procure a dissolution; this some doubted, but I am sure I never did; for I knew perfectly well that the king had frequent disputes with himself at that time, whether he should dissolve or continue them; and he several times declared that the arguments were so strong on both sides, that he could not tell to which to incline; but was carried at last to the continuance of them by this one argument; if I try them once more, they may possibly give me money; if they do I have gained my point, if they do not, I can dissolve them then, and be where I am now: so that I have a possibility at least of getting money for their continuance, against nothing on the other side: but if we could have turned this argument, and said; Sir, their dissolution will certainly procure you money, when you have only a bare possibility of getting any by their continuance, and have shewn how far that bare possibility was from being a foundation to build any reasonable hope upon, which I am sure his majesty was sensible of: and how much 300,000*l.* sterling certain (which was the sum we proposed) was better than a bare possibility (without any reason to hope that that could ever be compassed) of having half so much more (which was the most he designed to ask,) upon some vile dishonourable terms, and a thousand other hazards, which he had great reason to be afraid of: if, I say, we had power to have argued this, I am most confidently assured we could have compassed it, for Logic in our court built upon money, has more powerful charms than any other sort of reasoning. But to secure his most christian majesty from any hazard as to that point, I proposed his majesty should offer that sum upon that condition; and if the condition were not performed, the money should never be due; if it were and that a peace would certainly follow thereupon, (which nobody doubted) his majesty would gain his ends and save all the vast expences of the next campaign, by which he could not hope to better his condition, or put himself into more advantageous

circumstances of Treaty than he was then in; but might very probably be in a much worse, considering the mighty opposition he was like to meet with, and the uncertain chances of war. But admitting that his majesty could by his great strength and conduct maintain himself in as good a condition to treat the next year as he was then in; (which was as much as could then reasonably be hoped for) he should have saved by this proposal as much as all the men he must needs lose, and all the charges he should be at in a year, would be valued to amount to more than 300,000*l.* sterling, and so much more in case his condition should decay, as it should be worse than it was when this was made; and the condition of his royal highness and of the Catholic religion here (which depends very much upon the success of his most christian majesty,) delivered from a great many frights and real hazards. F. Ferrier seemed to be very sensible of the benefit all parties would gain by this proposal; but yet it was unfortunately delayed by an unhappy and tedious fit of sickness, which kept him so long from the king in the Franche Comte, and made him so unable to wait on his majesty after he did return to Paris: but so soon as he could compass it, he was pleased to acquaint his majesty with it, and wrote to the Duke himself; and did me the honour to write unto me also on the 15th of September 1674, and sent his letter by sir William Throckmorton, who came upon express that errand: in these letters he gave his royal highness fresh assurance of his most christian majesty's friendship, and of his zeal and readiness to comply with every thing his royal highness had, or should think fit to propose in favour of religion, or the business of money; and that he had commanded M. Rouvigny as to the latter, to treat and deal with his royal highness and to receive and observe his orders and directions; but desired that he might not at all be concerned as to the former, but that his royal highness would cause what proposition he should think fit to be made about religion, to be offered either to Father Ferrier, or M. Pompone.

“ These letters came to us about the middle of September, and his royal highness expected daily when M. Rouvigny should speak to him about the subject of that letter; but he took no notice at all of any thing till the 29th of September, the evening before the king and duke went to Newmarket for a fortnight, and then only said, that he had commands from his master to give his royal highness the most firm assurance of his friendship imaginable, or something to that purpose; making his royal highness a general compliment, but made no mention of any particular orders relating to Father Ferrier's letter. The duke wondering at this proceeding, and being obliged to stay a good part of October at Newmarket; and soon after his coming back, hearing of the death of Father Ferrier, he gave over all further prosecuting of the former project. But I believe I saw M. Rouvigny's policy all along, who was

willing to save his master's money, upon assurance that we would do all we could to stave off the parliament for our own sakes, that we would struggle as hard without money as with it; and we having by that time, upon our own interest, prevailed to get the parliament prorogued to the 13th of April, he thought that prorogation being to a day so high in the spring, would put the confederates so far beyond their measures, as that it might procure a peace, and be as useful to France as a dissolution: upon these reasons I suppose he went. I had several discourses with him; and did open myself so far to him as to say, I could wish his master would give us leave to offer to our master 300,000*l.* for the dissolution of the parliament; and shewed him that a peace would most certainly follow a dissolution (which he agreed with me in,) and that we desired not the money from his master to excite our wills, or to make us more industrious to use our utmost powers to procure a dissolution, but to strengthen our power and credit with the king, and to render us more capable to succeed with his majesty, as most certainly we should have done, had we been fortified with such an argument.

“ To this purpose I pressed M. Pompone frequently by sir William Throckmorton, who returned hence again into France on the 10th of November, the day our parliament should have met, but was prorogued. M. Pompone (as I was informed by sir William) did seem to approve the thing; but yet had two objections against it: First, that the sum we proposed, was great; and could be very ill spared in the circumstances his most Christian majesty was in. To which we answered, that if by his expending that sum, he could procure a dissolution of our parliament, and thereby a peace, which every body agreed would necessarily follow; his most Christian majesty would gain his ends, and save five or ten times a greater sum, and so be a good husband by his expence; and if we did not procure a dissolution, he should not be at that expence at all; for that we desired him only to promise upon that condition, which we were content to be obliged to perform first. The second Objection was, The duke did not move, nor appear in it himself. To that we answered, That he did not indeed to M. Pompone, because he had found so ill an effect of the negotiation with Father Ferrier, when it came into M. Rouvigny's hands; but that he had concerned himself in it to Father Ferrier.

“ Yet I continued to prosecute and press the dissolution of the parliament, detesting all prorogations as only so much loss of time, and a means of strengthening all those who depend upon it in opposition to the crown, the interest of France and Catholic religion, in the opinion they had taken. That our king durst not part with his parliament; apprehending that another would be much worse. Secondly, That he could not live long without a parliament, therefore they must suddenly meet; and the

longer he kept them off, the greater his necessity would grow; and consequently their power to make him do what they listed, would increase accordingly: and therefore, if they could but maintain themselves a while, the day would certainly come in a short time, in which they should be able to work their wills. Such discourses as these kept the Confederates and our Male-contents in heart, and made them weather on the war in spite of all our prorogations: therefore I pressed (as I have said) a dissolution until February last, when our circumstances were so totally changed, that we were forced to change our counsels too, and be as much for the parliament's sitting, as we were before against it.

“Our Change was thus: Before that time, the lord Arlington was the only minister in credit, who thought himself out of all danger of the parliament; he having been accused before them and justified, and therefore was zealous for their sitting; and to increase his reputation with them, and to become a perfect favourite, he sets himself all he could to persecute the Catholic religion, and to oppose the French: To shew his zeal against the first, he revived some old dormant Orders for prohibiting Roman Catholics to appear before the king, and put them in execution at his first coming into his office of Lord Chamberlain: And to make sure work with the second, as he thought; prevailed with the king to give him and the earl of Ossory, (who married two sisters of Myne Heere Odyke's) leave to go over into Holland with the said Heere, to make a visit, as they pretended, to their relations; but indeed, and in truth, to propose the lady Mary, eldest daughter of his royal highness, as a match for the prince of Orange; not only without the consent, but against the good liking of his royal highness: Insomuch, that the lord Arlington's creatures were forced to excuse him, with a distinction, that the said lady was not to be looked upon as the duke's daughter, but as the king's, and a child of the state was, and so the duke's consent not much to be considered in the disposal of her, but only the interest of state. By this he intended to render himself the darling of parliament and Protestants, who looked upon themselves as secured in their religion by such an alliance, and designed further to draw us into a close conjunction with Holland, and the enemies of France. The lord Arlington set forth upon this errand the 10th of November, 1674, and returned not till the 6th of January following: During his absence, the Lord Treasurer, Lord Keeper, and the duke of Lauderdale, who were the only ministers of any considerable credit with the king, and who all pretended to be entirely united to the Duke, declaimed loudly and with great violence, against the said lord, and his actions in Holland; and did hope, in his absence, to have totally supplanted him, and to have routed him out of the king's favour; and after that, thought they might easily enough have dealt with the parliament. But

none of them had courage enough to speak against the parliament, till they could get rid of him; for fear they should not succeed, and that the parliament would sit in spite of them, and come to hear that they had used their endeavours against it: which would have been so unpardonable a crime with our Omnipotent Parliament, that no power could have been able to have saved them from punishment: But they finding at his return, that they could not prevail against him by such means and arts as they had then tried, resolved upon new counsels; which were to outrun him in his own course; which accordingly they undertook, and became as fierce apostles, and as zealous for Protestant religion, and against Popery, as ever my lord Arlington had been before them; and in pursuance thereof, persuaded the king to issue out those severe Orders and Proclamations against Catholics, which came out in February last; by which they did as much as in them lay to extirpate all Catholics, and Catholic religion, out of the kingdom; which counsels were in my poor opinion so detestable, being levelled, as they must needs be, so directly against the Duke, by people which he had advanced, and who had professed so much duty and service to him, that we were put upon new thoughts how to save his royal highness now from the deceits and snares of those men upon whom we formerly depended. We saw well enough, that their design was to make themselves as grateful as they could to the parliament, if it must sit; they thinking nothing so acceptable to them, as the persecution of Popery; and yet they were so obnoxious to the parliament's displeasure in general, that they would have been glad of any expedient to have kept it off; though they durst not engage against it openly themselves, but thought this device of theirs might serve for their purposes, hoping the Duke would be so alarmed at their proceedings, and by his being left by every body, that he would be much more afraid of the parliament than ever, and would use his utmost power to prevent its sitting: which they doubted not but he would endeavour; and they were ready enough to work underhand too for him (for their own sakes, not his), in order thereunto; but durst not appear openly; and to encourage the Duke the more to endeavour the dissolution of the parliament, their creatures used to say up and down, That this rigor against the Catholics was in favour of the Duke, and to make a dissolution of the parliament more easy, (which they knew he coveted) by obviating one great objection which was commonly made against it, which was, That if the parliament should be dissolved, it would be said, That it was done in favour of Popery; which clamour they had prevented beforehand by the severity they had used against it.

“As soon as we saw these tricks put upon us we plainly saw, what men we had to deal withal, and what we had to trust to, if we were wholly at their mercy: But yet durst not

seem so dissatisfied as we really were, but rather magnified the contrivance, as a device of great cunning and skill: All this we did purely to hold them in a belief, that we would endeavour to dissolve the parliament, and that they might rely upon his royal highness for that which we knew they longed for, and were afraid they might do some other way, if they discovered that we were resolved we would not: At length when we saw the sessions secured, we declared, that we were for the parliament's meeting; as indeed we were, from the moment we saw ourselves handled by all the king's ministers at such a rate that we had reason to believe they would sacrifice France, religion, and his royal highness too, to their own interest, if occasion served; and that they were led to believe, that that was the only way they had to save themselves at that time: For we saw no expedient fit to stop them in their career of persecution, and those other destructive counsels, but the parliament; which had set itself a long time to dislike every thing the ministers had done, and had appeared violently against popery, whilst the court seemed to favour it; and therefore we were confident, that the ministers having turned their faces, the parliament would do so too, and still be against them; and be as little for persecution then, as they had been for popery before. This I undertook to manage for the Duke and the king of France's interest; and assured M. Rouvigny, which I am sure he will testify, if occasion serves, that that sessions should do neither of them any hurt; for that I was sure I had power enough to prevent mischief, though I durst not engage for any good they would do; because I had but very few assistances to carry on the work, and wanted those helps which others had, of making friends: The Dutch and Spaniard spared no pains or expence of money to animate as many as they could against France; our Lord Treasurer, Lord Keeper, all the bishops, and such as called themselves Old Cavaliers, (who were all then as one man) were not less industrious against popery, and had the purse at their girdle too; which is an excellent instrument to gain friends with; and all united against the Duke, as patron both of France and catholic religion. To deal with all this force, we had no money, but what came from a few private hands; and those so mean ones too, that I dare venture to say, that I spent more my particular self out of my own fortune, and upon my own single credit, than all the whole body of catholics in England besides; which was so inconsiderable, in comparison of what our adversaries commanded, and we verily believe did bestow in making their party, that it is not worth mentioning: Yet notwithstanding all this, we saw that by the help of the Nonconformists, as Presbyterians, Independants, and other sects, (who were as much afraid of persecution as ourselves) and of the enemies of the ministers, and particularly of the Treasurer; who by that time had supplanted the earl of Arlington, and was grown sole manager of all affairs him-

self, we should be very able to prevent what they designed against us, and so render the sessions ineffectual to their ends, though we might not be able to compass our own; which were, to make some brisk step in favour of his royal highness, to shew the king, that his majesty's affairs in parliament were not obstructed, by reason of any aversion they had to his royal highness's person, or apprehensions they had of him, or his religion; but from faction and ambition in some, and from a real dissatisfaction in others, that we have not had such fruits and good effects of those great sums of money which have been formerly given, as was expected. If we could then have made but one such step, the king would certainly have restored his royal highness to all his commissions; upon which he would have been much greater than ever yet he was in his whole life, or could probably ever have been by any other course in the world, than what he had taken of becoming catholic, &c. And we were so very near gaining this point, that I did humbly beg his royal highness to give me leave to put the parliament upon making an Address to the king, that his majesty would be pleased to put the fleet into the hands of his royal highness, as the only person likely to have a good account of so important a charge as that was to the kingdom; and shewed his royal highness such reasons to persuade him that we could carry it, that he agreed with me in it, that he believed we could. Yet others telling him how great a damage it would be to him, if he should miss in such an undertaking (which for my part I could not then see, nor do I yet), he was prevailed upon not to venture, though he was persuaded he could carry it. I did communicate this design of mine to M. Rouvigny, who agreed with me, that it would be the greatest advantage imaginable to his master, to have the Duke's power and credit so far advanced as this would certainly do, if we could compass it: I shewed him all the difficulty we were like to meet with, and what helps we should have; but that we should want one very material one, money, to carry on the work as we ought; and therefore I do confess, I did shamefully beg his master's help, and would willingly have been in everlasting disgrace with all the world, if I had not with that assistance of 20,000*l.* sterling, which perhaps is not the tenth part of what was spent on the other side, made it evident to the Duke, that he could not have missed it. M. Rouvigny used to tell me, That if he could be sure of succeeding in that design, his master would give a very much larger sum, but that he was not in a condition to throw away money upon uncertainties. I answered, That nothing of that nature could be so infallibly sure, as not to be subject to some possibilities of failing; but that I durst venture to undertake to make it evident, that there was as great an assurance of succeeding in it, as any husbandman can have of a crop in harvest who sows his ground in its due season; and yet it would be counted a very imprudent piece of wariness in any body,

to scruple the venturing of so much seed in its proper time, because it is possible it may be totally lost, and no benefit of it found in harvest; he that minds the winds and the rains at that rate, shall neither sow nor reap. I take our case to be much the same as it was the last sessions: If we can advance the Duke's interest one step forward, we shall put him out of the reach of chance for ever; for he makes such a figure already, that cautious men do not care to act against him, nor always without him, because they do not see that he is much outpowered by his enemies; yet is he not at such a pitch, as to be quite out of danger, or free from opposition: But if he could gain any considerable new addition of power, all would come over to him as the only steady center of our government, and nobody would contend with him further. Then would catholics be at rest, and his most Christian majesty's interest secured with us in England beyond all apprehensions whatsoever.

"In order to this, we have two great Designs to attempt this next sessions. First, that which we were about before, viz. To put the parliament upon making it their humble request to the king, that the Fleet may be put into his royal highness's care. Secondly, to get an Act for general Liberty of Conscience. If we carry these two, or either of them, we shall in effect do what we list afterwards; and truly, we think we do not undertake these great points very unreasonably, but that we have good cards for our game; not but that we expect great opposition, and have great reason to beg all the assistance we can possibly get; and therefore, if his most Christian majesty would stand by us a little in this conjuncture, and help us with such a sum as 20,000*l.* sterling (which is no very great matter to venture upon such an undertaking as this), I would be content to be sacrificed to the utmost malice of my enemies, if I did not succeed. I have proposed this several times to M. Rouvigny, who seemed always of my opinion; and has often told me, that he has writ into France upon this subject, and has desired me to do the like: but I know not whether he will be as zealous in that point as a Catholic would be; because our prevailing in these things would give the greatest blow to the Protestant religion here, that ever it received since its birth; which perhaps he would not be very glad to see; especially when he believes there is another way of doing his master's business well enough without it; which is by a dissolution of the parliament; upon which I know he mightily depends, and concludes, that if that come to be dissolved, it will be as much as he needs care for; proceeding perhaps upon the same manner of discourse which we had this time 12 months. But with submission to his better judgment, I do think that our case is extremely much altered to what it was, in relation to a dissolution; for then the body of our governing ministers (all but the earl of Arlington) were entirely united to the duke; and would have governed his way, if they had been free from all fear and controul, as they

had been, if the parliament had been removed. But they having since that time engaged in quite different counsels, and embarked themselves and interests upon other bottoms, having declared themselves against popery, &c. To dissolve the parliament simply, and without any other step made, will be to leave them to govern what way they list, which we have reason to suspect will be to the prejudice of France and Catholic religion. And their late declarations and actions have demonstrated to us, that they take that for the most popular way for themselves, and likeliest to keep them in absolute power; whereas, if the duke should once get above them (after the tricks they have played with him) they are not sure he will totally forget the usage he has had at their hands: therefore it imports us now to advance our interest a little further, by some such project as I have named, before we dissolve the parliament; or else, perhaps, we shall but change masters (a parliament for ministers), and continue still in the same slavery and bondage as before. But one such step as I have proposed, being well made, we may safely see them dissolved, and not fear the ministers; but shall be established, and stand firm without any opposition; for every body will then come over to us, and worship the rising sun.

"I have here given you the history of three years, as short as I could, though I am afraid it will seem very long and troublesome to your reverence, among the multitude of affairs you are concerned in: I have also shewn you the present state of our case, which may (by God's providence, and good conduct) be made of such advantage to God's church; that for my part, I can scarce believe myself awake, or the thing real, when I think on a prince in such an age as we live in, converted to such a degree of zeal and piety, as not to regard any thing in the world in comparison of God Almighty's glory, the salvation of his own soul, and the conversion of our poor kingdom; which has been a long time oppressed, and miserably harassed with heresy and schism. I doubt not but your reverence will consider our case, and take it to heart, and afford us what help you can; both with the king of heaven, by your holy prayers, and with his most Christian majesty, by that great credit which you most justly have with him. And if ever his majesty's affairs (or your own) can want the service of so inconsiderable a creature as myself, you shall never find any body readier to obey your commands, or faithfuller in the execution of them, to the best of his power, than your most humble and obedient servant."

Att. Gen. That I may make things clear, as much as possible; you see, here is a letter prepared to be sent, writ with Mr. Coleman's own hand, to M. la Chaise: This letter bears date the 29th of September. We have an Answer to it from Paris, October 23, whereby M. la Chaise owns the receipt of this: and in this Answer is expressed thanks to Mr. Coleman for his long letter. Sir Robert, Pray tell how you came by this Letter.

Sir Rob. Southwell. I found this Letter in Mr. Coleman's canvas bag; after we had once looked over the letters, we found it: sir Philip Lloyd examined it; and we looked over those papers very exactly. Because the House of Commons were very much concerned, and thought those papers were not thoroughly examined, I reviewed them again. This Letter was found on Sunday following after the papers were seized.

Att. Gen. Sir Robert Southwell, I pray read the Letter in French first to the court. Sir Robert having read the letter in French, Mr. Attorney desired him to read it in English. Sir Robert read it in English: The letter was dated Paris, Oct. 23, 1675. And subscribed, "Your most humble and obedient Servant, D. L. C." at the bottom.

The LETTER.

"Sir; *From Paris, Oct. 23, 1675.*

"The letter which you gave yourself the trouble to write to me, came to my hands but the last night. I read it with great satisfaction; and I assure you, that its length did not make it seem tedious. I should be very glad on my part to assist in seconding your good intentions; I will consider of the means to effect it; and when I am better informed than I am as yet, I will give you an account: to the end I may hold intelligence with you, as you did with my predecessor. I desire you to believe that I will never fail as to my good will, for the service of your master, whom I honour as much as he deserves; and that it is with great truth that I am your most humble and most obedient Servant, "D. L. C."

Att. Gen. We made mention of a Declaration: By his long narrative it plainly appears, that Mr. Coleman would have had another parliament. And the reason why he was pleased to publish a Declaration, was, thereby to shew the reasons for its dissolution. Sir Philip Lloyd, did you find this writing among Mr. Coleman's papers?

Sir P. L. I did find it among his papers.

Att. Gen. Pray read the Declaration.

Clerk of the Crown reads the Declaration.

The DECLARATION which Mr. Coleman prepared, thereby shewing his Reasons for the Dissolution of the Parliament.

"We having taken into our serious consideration the heats and animosities which have of late appeared among many of our very loyal and loving subjects of this kingdom, and the many fears and jealousies which some of them seem to lie under, of having their liberties and properties invaded, or their religion altered; and withal, carefully reflecting upon our own government since our happy Restoration, and the end and aim of it, which has always been the ease and security of our people in all their rights, and advancement of the beauty and splendor of the true Protestant religion established in the Church of England; of both

which we have given most signal testimonies, even to the stripping ourself of many royal prerogatives which our predecessors enjoyed, and were our undoubted due; as the court of wards, purveyances, and other things of great value; and denying to ourself many advantages, which we might reasonably and legally have taken by the forfeitures made in the times of rebellion, and the great revenues due to the Church at our return, which no particular person had any right to; instead of which, we consented to an act of oblivion of all those barbarous usages which our royal father and ourself had met withal, much more full and gracious than almost any of our subjects, who were generally become in some measure or other obnoxious to the laws, had confidence to ask; and freely renounced all our title to the profit which we might have made by the church lands, in favour of our bishops and other ecclesiastical ministers, out of our zeal to the glory of our Protestant Church; which clemency towards all, and some even high offenders, and zeal for religion, we have to this day constantly continued to exercise. Considering all this, we cannot but be sensibly afflicted to see, that the frowardness of some few tumultuous heads should be able to infect our loyal and good people with apprehensions destructive of their own, and the general quiet of our kingdom; and more especially, their perversness should be powerful enough to distract our very parliament, and such a parliament, as has given us such testimonies of its loyalty, wisdom, and bounty, and to which we have given as many marks of our affection and esteem, so as to make them misconstrue all our endeavours for to preserve our people in ease and prosperity, and against all reason and evidence to represent them to our subjects as arguments of fear and disquiet; and under these specious pretences of securing property and religion, to demand unreasonable things, manifestly destructive of what they would be thought to aim at; and from our frequent condescensions, out of our mere grace, to grant them what we conceived might give them satisfaction, though to the actual prejudice of our royal prerogative, to make them presume to propose to advance such extravagancies into laws, as they themselves have formerly declared detestable; of which we cannot forbear to give our truly loyal subjects some instances, to undeceive our innocent and well-minded people, who have many of them of late been too easily misled, by the factious endeavours of some turbulent spirits. For example, We having judged it necessary to declare war against the States of Holland, during a recess of parliament, which we could not defer longer, without losing an advantage which then presented itself, nor have done sooner, without exposing our honour to a potent enemy without due preparation, we thought it prudent to unite all our subjects at home, and did believe a general indulgence of tender consciences the most proper expedient to effect it; and therefore did by our authority

in ecclesiastics, which we thought sufficient to warrant what we did, suspend penal laws against dissenters in religion, upon conditions expressed in our Declaration, out of reason of state, as well as to gratify our own nature, which always, we confess, abhorred rigor, especially in religion, when tenderness might be as useful. After we had engaged in the war, we prorogued our parliament from April to October, being confident we should be able by that time to shew our people such success of our arms, as should make them cheerfully contribute to our charge. At October we could have shewn them success even beyond our own hopes, or what they could possibly expect; our enemies having lost by that time, near 100 strong towns and forts, taken in effect by us, we holding them busy at sea, whilst our allies possessed themselves of their lands, with little or no resistance; and of which, the great advantage would most visibly have been ours, had not the feuds we now complain of, which have been since unhappily started, and factiously improved by some few, disunited our people, distracted our councils, and rendered our late endeavours vain and fruitless; so that we had no reason to doubt of our people's ready and liberal concurrence to our assistance in that conjuncture. Yet our enemies proposing to us at that time a treaty for peace, which we were always ready to accept upon honourable terms; and considering with ourself, that in case that treaty succeeded, a far less sum of money would serve our occasions, than otherwise would be necessary: We, out of our tender regard to the ease of our people, prorogued our parliament again to February; to attend the success of our treaty, rather than to demand so much money in October, as would be fit to carry on the war. But we soon finding that our enemies did not intend us any just satisfaction, saw a necessity of prosecuting the war, which we designed to do most vigorously; and in order to it, resolved to press our parliament to supply us as speedily as may be, to enable us to put our fleet to sea early in the spring, which would after their meeting grow on apace. And being informed that many members were dead during the long recess, we issued out our writs for new elections, that our House of Commons might be full at the first opening of the sessions, to prevent any delay in our public affairs, or dislike in our people, as might possibly have risen from the want of so great a number of their representatives, if any thing of moment should be concluded before it had been supplied. Having governed our actions all along with such careful respect to the ease of our subjects, we at the meeting of our parliament in February 1672, expected from them some suitable expressions of their sense of our favours; but quite contrary, found ourself alarmed with clamorous complaints from several cabals against all our proceedings, frightening many of our good subjects into strange conceits of what they must look for, by their seditious and false constructions of what we had so candidly and sincerely

done for their good; and surprised with a vote of our House of Commons, against our writs of elections, which we intended for their satisfactions, against many precedents of ours, or without any colour of law of their side, denying our power to issue out such writs addressing to us to issue out others: which we consented to do at their request, choosing rather to yield to our subjects in that point, than to be forced to submit to our enemies in others; hoping that our parliament being sensibly touched with that our extraordinary condescension, would go on to consider the public concern of the kingdom, without any further to do: but we found another use of our so easy compliance, which served to encourage them to ask more; so that soon after we found our declaration for indulging tender consciences arraigned and voted illegal; though we cannot to this day understand the consistencies of that vote, with our undoubted supremacy in all ecclesiastics, recognized by so many acts of parliament, and required to be sworn to by all our subjects, and addresses made to us one after another to recal it, which we condescended to also; from hence they proceeded to us to weaken ourself in an actual war, and to render many of our subjects, of whose loyalty and ability we were well satisfied, incapable to serve us, when we wanted officers and soldiers, and had reason to invite as many experienced men as we could to engage in our arms, rather than to incapacitate or discourage any; yet this also we gratified them in, to gain their assistance against our enemies, who grew high by these our differences, rather than expose our country to their power and fury; hoping that in time our people would be confounded to see our concessions, and be ashamed of their errors in making such demands. But finding the unfortunate effects of our divisions the following summer, we found our parliament more extravagant at the next meeting than ever, addressing to us to hinder the consummation of our dear brother's marriage, contrary to the law of God, which forbiddeth any to separate any whom he hath joined, against our faith and honour engaged in the solemn Treaty, obstinately persisting in that Address, after we had acquainted them, that the marriage was then actually ratified, and that we had acted in it by our ambassador; so that we were forced to separate them for a while, hoping they would bethink themselves better at their meeting in January. Instead of being more moderate, or ready to consider our wants towards the war; they voted, as they had done before, not to assist us still, until their religion were effectually secured against popery, grievances redressed, and all obnoxious men removed from us; which we had reason to take for an absolute denial of all aid; considering the indefiniteness of what was to proceed, and the moral impossibility of effecting it in their senses; for when will they say their religion is effectually secured from popery, if it were in danger then, by reason of the insolency of papists; when our House of Commons, which is made up of members from every corner of our kingdom,

with invitations publicly posted up to all men to accuse them, has not yet in so many years as they have complained of them, been able to charge one single member of that communion, with so much as a misdemeanor? Or what security could they possibly expect against that body of men, or their religion, more than we had given them? or how can we hope to live so perfectly, that study and pains may not make a collection of grievances, as considerable as that which was lately presented to us, than which we could not have wished for a better vindication of our government? or when shall we be sure that all obnoxious men are removed from us, when common fame thinks fit to call them so; which is to every body, without any proof, sufficient to render any man obnoxious, who is popishly affected, or any thing else that is ill, though they have never so often or lately complied with their own tests, and marks of distinction and discriminations? finding our people thus unhappily disordered, we saw it impossible to prosecute the war any longer; and therefore did by their advice make a peace upon such conditions as we could get; hoping that being gratified in that darling point they would at least have paid our debts, and enabled us to have built some ships for the future security of our honour, and their own properties; but they being transported with their success in asking, were resolved to go on still that way, and would needs have us put upon the removing of our judges from those charges, which they have always hitherto held at the will and pleasure of the crown, out of our power to alter the ancient laws of trying of peers, and to make it a premunire in our subjects (in a case supposed) not to fight against ourself; nay, some had the heart to ask, that the hereditary succession of our crown (which is the foundation of all our laws) should be changed into a sort of election, they requiring the heir to be qualified with certain conditions to make him capable of succeeding; and outdoing that Popish doctrine, which we have so long and so loudly with good reason decried, that heresy incapacitates kings to reign. They would have had, that the heir of the crown, marrying a papist, though he continued never so orthodox himself, should forfeit his right of inheritance; not understanding this paradoxical way of securing religion by destroying it; as this would have done that of the church of England, which always taught obedience to their natural kings, as an indispensable duty in all good christians, let the religion or deportment of their prince be what it will; and not knowing how soon that impediment, which was supposed as sufficient to keep out an heir, might be thought as fit to remove a possessor: And comparing that bill which would have it a premunire in a sheriff not to raise the *Posse Comitatus*, against our commission in a case there supposed, though we ourself should assist that our commission in our person: For not being excepted is implied with the other made by this very parliament in

the 14th year of our reign, which all our subjects, or at least many of them, were obliged to swear (viz. That the doctrine of taking up arms by the king's authority, against his person, was detestable); and we soon found that the design was levelled against the good Protestant religion of our good church, which its enemies had a mind to blemish, by sliding in slyly those damnable doctrines, by such an authority as that of our parliament, into the profession of our faith or practices, and so expose our whole religion to the scorn and reproach of themselves, and all the world: We therefore thought it our duty to be so watchful as to prevent the enemies sowing such mischievous tares as these, in the wholesome field of our church of England, and to guard the unspotted spouse of our blessed Lord from that foul accusation with which she justly charges other churches, of teaching their children loyalty, with so many reserves and conditions, that they shall never want a distinction to justify rebellion; nor a text of scripture, as good as Curse ye Meroz, to encourage them to be traitors: Whereas our truly reformed church knows no such subtilties; but teaches according to the simplicity of christianity, to submit to every ordinance of man for God's sake, according to the natural signification of the words, without equivocation or artificial turns. In order to which, having thought to dissolve that body, which we have these many years so tenderly cherished, and which we are sure consists generally of most dutiful and loyal members, we were forced to prorogue our parliament till November next, hoping thereby to cure those disorders, which have been sown among the best and loyalest subjects by a few malicious incendiaries. But understanding since, that such who have sowed that seditious seed, are as industriously careful to water it by their cabals, and emissaries, instructed on purpose to poison our people with discourses in public places, in hopes of a great crop of confusion, their beloved fruit, the next sessions; we have found it absolutely necessary to dissolve our parliament, though with great reluctance and violence to our inclination: But remembering the days of our royal father; and the progress of affairs then, how from a cry against popery the people went on to complain of grievances, and against evil counsellors and his majesty's prerogative; until they advanced into a formal rebellion, which brought forth the most direful and fatal effects that ever were yet heard of amongst any men, christians or others; and withal, finding so great a resemblance between the proceedings then and now, that they seem both broth of the same brains: And being confirmed in that conceit, by observing the actions of many now, who had a great share in the former rebellion, and their zeal for religion who by their lives gave us too much reason to suspect they have none at all; we thought it not safe to dally too long, as our Royal Father did, with submissions and condescensions, endeavouring to cure men infected, without removing them from the air where they got the

disease, and in which it still rages and increases daily. For fear of meeting with no better success than he found in suffering his parliament to challenge power they had nothing to do with, till they had bewitched the people into fond desires of such things as quickly destroyed both king and country, which in us would [be] an intolerable error, having been warned so lately by the most execrable murder of our Royal Father, and the inhuman usage which we our self in our royal person and family have suffered, and our loyal subjects have endured, by such practices: and lest this our great care of this our kingdom's quiet, and our own honour and safety, should, as our best actions hitherto have been, be wrested to some sinister sense and arguments be made from it to scare our good people into any apprehensions of an arbitrary government either in church or state: We do hereby solemnly declare and faithfully engage our royal word, that we will in no case either ecclesiastical or civil, violate or alter the known laws of our kingdom, or invade any man's property or liberty without due course of law: But that we will with our utmost endeavours preserve the true Protestant Religion, and redress all such things as shall indifferently, and without passion, be judged grievances by our next parliament, which we do by God's blessing intend to call before the end of February next. In the mean time we do strictly charge and command all manner of persons whatsoever, to forbear to talk seditiously, slightly or irreverently of our dissolving of the parliament, of this our declaration, or of our person or government, as they will answer it at their perils; we being resolved to prosecute all offenders in that kind with the utmost rigour and severity of the law. And to the end that such licentious persons, if any shall be so impudent and obstinate as to disobey this our royal command, may be detected and brought to due punishment, we have ordered our Lord Treasurer to make speedy payment of twenty pounds to any person or persons who shall discover or bring any such seditious, slight or irreverent talker before any of our principal secretaries of state."

Recorder. I would have the jury should know the Declaration ends, "To one of his majesty's principal secretaries of state;" whereof he hoped to be one.

Att. Gen. This is written in the name of the king; for Mr. Coleman thought himself now secretary of state, and he pens the Declaration, for the king to give an account why the parliament was dissolved.

Serj. Maynard. The long letter, it appears, was to dissolve the parliament; and to make it cock-sure, he provides a Declaration to shew the reason of it: it was done in order to bring in popery; that may appear by the subsequent proof.

Att. Gen. I have other evidence to offer to your lordship, which is, That Mr. Coleman was not only so bold as to prepare a Declaration for

the king, but also out of his own further ingenuity, prepares a Letter (contrary to the duke's knowledge) for the duke, which before several Lords he confessed; and sir Philip Floyd is here ready to justify it.

Sir Philip Floyd. I did attend a Committee of the House of Lords to Newgate, who examined Mr. Coleman, and told him of the letter Mr. Attorney mentioneth; he then confessed, that it was prepared without the order and privacy of the duke; and when he was so bold as to shew it the duke, the duke was very angry and rejected it.

L. C. J. He hath been a very forward undertaker on the behalf of the duke.

Att. Gen. I desire the Letter may be read.

The Copy of the Letter written to M. La Chaise the French king's Confessor; which Mr. Coleman confessed he himself wrote and counterfeited in the duke's name.

Clerk of the Crown reads the Letter.

"The 2d of June last past, his most christian majesty offered me most generously his friendship, and the use of his purse, to the assistance against the designs of my enemies and his; and protested unto me, that his interest and mine were so clearly linked together, that those that opposed the one, should be looked upon as enemies to the other; and told me moreover his opinion of my lord Arlington, and the parliament; which is, That he is of opinion that neither the one nor the other is in his interest or mine: And thereupon he desired me to make such propositions as I should think fit in this conjuncture.

"All was transacted by the means of Father Ferrier, who made use of Sir William Throckmorton, who is an honest man, and of truth, who was then at Paris, and had held correspondence with Coleman, one of my family, in whom I have great confidence.

"I was much satisfied to see his most christian majesty altogether of my opinion, so I made him answer the 29th of June, by the same means he made use of to write to me, that is, by Coleman, who addressed himself to Father Ferrier (by the forementioned knight), and entirely agreed to his most christian majesty, as well to what had respect to the union of our interests, as the unusefulness of my lord Arlington, and the parliament, in order to the service of the king my brother, and his most christian majesty; and that it was necessary to make use of our joint and utmost credits, to prevent the success of those evil designs, resolved on by the lord Arlington and the parliament, against his most christian majesty and myself; which, of my side, I promise really to perform: of which, since that time, I have given reasonable good proof.

"Moreover I made some proposals, which I thought necessary to bring to pass what we were obliged to undertake, assuring him, That nothing could so firmly establish our interest with the king my brother, as that very same

offer of the help of his purse; by which means I had much reason to hope I should be enabled to persuade to the dissolving of the parliament, and to make void the designs of my lord Arlington, who works incessantly to advance the interest of the prince of Orange and the Hollanders, and to lessen that of the king your master, notwithstanding all the protestations he hath made to this hour to render him service.

“But as that, which was proposed, was at a stand by reason of the sickness of Father Ferrier, so our affairs succeeded not according to our designs; only Father Ferrier wrote to me, the 15th of the last month, That he had communicated those propositions to his most christian majesty, and that they had been very well liked of; but as they contained things that had regard to the catholic religion, and to the offer and use of his purse, he gave me to understand he did not desire I should treat with M. Rouvigny upon the first, but as to the last, and had the same time acquainted me, that M. Rouvigny had order to grant me whatsoever the conjuncture of our affairs did require; and have expected the effects of it to this very hour: But nothing being done in it, and seeing, on the other hand, that my lord Arlington and several others endeavoured by a thousand deceits to break the good intelligence which is between the king my brother, his most christian majesty, and myself, to the end they might deceive us all three; I have thought fit to advertise you of all that is past; and desire of you your assistance and friendship to prevent the rogueries of those, who have no other design than to betray the concerns of France and England also, and who by their pretended service are the occasion they succeed not.

“As to any thing more, I refer you to sir William Throckmorton, and Coleman, whom I have commanded to give an account of the whole state of our affair, and of the true condition of England, with many others, and principally my lord Arlington's endeavours, to represent to you quite otherwise than it is.

“The two first I mention to you are firm to my interest, so that you may treat with them without any apprehension.”

Serj. *Maynard*. Gentlemen of the Jury, pray observe that he takes upon him to prepare a letter, and that in the duke's name, but contrary to the duke's knowledge or privacy; for when he had so much boldness as to tell him of it, the duke was angry, and rejected it. But in it we may see what kind of passages there are, he takes very much upon him in this matter. And Mr. Coleman must keep the secret too.

Att. Gen. My Lord, I have but one paper more to read, and I have kept it till the last; because if we had proved nothing by witnesses, or not read any thing but this, this one letter is sufficient to maintain the charge against him: It plainly appears to whom it was directed and at what time. It begins thus (I sent your reverence a tedious long letter on our 29th of September). I only mention this, to shew

about what time it was sent. There are some clauses in it will speak better than I can. Sir Thomas Doleman and sir Philip Floyd swear he hath confessed and owned it to be his handwriting. I desire the letter may be read.

Clerk of the Crown reads the Letter.

“Sir; I sent your reverence a tedious long letter on our 29th Sept. to inform you of the progress of affairs for these two or three last years; I having now again the opportunity of a very sure hand to convey this by, I have sent you a cypher, because our parliament now drawing on, I may possibly have occasion to send you something which you may be willing enough to know, and may be necessary for us that you should, when we may want the conveniency of a messenger. When any thing occurs of more concern, other than which may not be fit to be trusted even to a cypher alone, I will, to make such a thing more secure, write in lemon between the lines of a letter, which shall have nothing in it visible, but what I care not who sees, but dried by a warm fire, shall discover what is written; so that if the letter comes to your hands, and upon drying it any thing appears more than did before, you may be sure no body has seen it by the way. I will not trouble you with that way of writing, but upon special occasions, and then I will give you a hint to direct you to look for it, by concluding my visible letter with something of fire, or burning, by which mark you may please to know, that there is something underneath, and how my letter is to be used to find it out.

“We have here a mighty work upon our hands, no less than the conversion of three kingdoms, and by that perhaps the utter subduing of a pestilent heresy, which has dominated over great part of this Northern world a long time; there were never such hopes of success since the death of our queen Mary, as now in our days: When God has given us a prince, who is become (may I say a miracle) zealous of being the author and instrument of so glorious a work; but the opposition we are sure to meet with, is also like to be great: So that it imports us to get all the aid and assistance we can, for the harvest is great, and the labourers but few. That which we rely upon most, next to God Almighty's providence, and the favour of my master the Duke, is the mighty mind of his most Christian majesty, whose generous soul inclines him to great undertakings, which being managed by your reverence's exemplary piety and prudence, will certainly make him look upon this as most suitable to himself, and best becoming his power and thoughts; so that I hope you will pardon me, if I be very troublesome to you upon this occasion, from whom I expect the greatest help we can hope for. I must confess I think his Christian majesty's temporal interest is so much attracted to that of his royal highness (which can never be considerable, but upon the growth and advancement of the catholic religion) that his ministers cannot give him better advice,

even in a politic sense, abstracting from the considerations of the next world, that of our blessed Lord, 'to seek first the kingdom of heaven, and the righteousness thereof, that all other things may be added unto him.' That I know his most Christian majesty has more powerful motives suggested to him by his own devotion, and your reverence's zeal for God's glory, to engage him to afford us the best help he can in our present circumstances. But we are a little unhappy in this, that we cannot press his majesty by his present minister here-upon these latter arguments (which are most strong), but only upon the first, Mr. Rouvigny's sense and ours differing very much upon them, though we agree perfectly upon the rest: And, indeed, though he be a very able man, as to his master's service, in things where religion is not concerned; yet I believe it were much more happy (considering the posture he is now in), that his temper were of such a sort, that we might deal clearly with him throughout, and not be forced to stop short in a discourse of consequence, and leave the most material part out, because we know it would shock his particular opinion, and so perhaps meet with dislike and opposition, though never so necessary to the main concern. I am afraid we shall find too much reason for this complaint in this next session of parliament: For had we had one here from his most Christian majesty, who had taken the whole business to heart, and who would have represented the state of our case truly, as it is, to his master, I do not doubt but his most Christian majesty would have engaged himself further in the affair than at present I fear he has done, and by his approbation have given such counsels as have been offered to his royal highness by those few catholics who have access to him, and who are bent to serve him and advance the catholic religion with all their might, and might have more credit with his royal highness than I fear they have found, and have assisted them also with his purse as far as 10,000 crowns, or some such sum (which to him is very inconsiderable, but would have been to them of greater use than can be imagined), towards gaining others to help them, or at least not to oppose them. If we had been so happy as to have had his most Christian majesty with us to this degree, I would have answered with my life for such success this sessions, as would have put the interest of the catholic religion, his royal highness and his most Christian majesty, out of all danger for the time to come. But wanting those helps of recommending those necessary counsels, which have been given his royal highness in such manner as to make him think them worth his accepting, and fit to govern himself by; and of those advantages, which a little money, well managed, would have gained us; I am afraid we shall not be much better at the end of this sessions than we are now. I pray God we do not lose ground. By my next, which will be ere long, I shall be able to tell your reverence more particularly, what we are like to expect.

In the mean time I most humbly beg your holy prayers for all our undertakings, and that you will be pleased to honour me so far as to esteem me what I am entirely, and without any reserve,
Mon très Reverend Pere, de votre R.

Le plus humble, plus obeisant serviteur."

[Several other Letters were read, but because of prolixity they are omitted, these being most material.]

Att. Gen. I have done with my evidence; we need no more proof against him.

Pris. My Lord, I would, if your lordship please, very fain ask of Mr. Oates (because he was pleased to say he was present with me in May or April), whether he knows the particular days of the months.

[Here Mr. Oates (who being tired, withdrew to rest himself) was called, and the prisoner was asked, whether he would speak with Bedloe, but he desired not to speak with him.]

Oates. The consult that was held in May New-stile, is April Old-stile; it was within a day, or two, or three of the consult?

Pris. Where was the consult?

Oates. It was begun at the White-Horse Tavern; then they did adjourn it to several clubs and companies, and you came two or three days after the consult to the Provincial's chamber, we then desiring to go out of town.

Pris. Was you there, and who else?

Oates. There was the provincial, and Micho and Strange the old provincial, and Keius your companion.

Pris. What day of August was that at the Savoy?

Oates. I cannot swear the particular day of the month, I cannot so far charge my memory.

The result at the consult in May was, that Pickering and Groves should go on in their attempt to assassinate the person of his majesty by shooting or otherwise. Mr. Coleman knew of this, and said, it was a good design.

L. C. J. Who was there? Was Mr. Coleman with them at the consultation?

Oates. No, my lord; but two or three days after the consultation, he was at Wild-House, and there he expressed that he approved of it.

L. C. J. Did he consent to it?

Oates. He did consent to it.

Just. Wild. Did he use no words about it?

Oates. He did shew his approbation of it. But in those instructions, that were brought to Ashby, he did say it was a very good proposition, but he thought the reward was too little.

L. C. J. Did he use any words to declare his assent?

Oates. Two things lie couched in the question, whether your lordship means the consult or the instructions he did approve of.

L. C. J. How long after the consultation was it that he approved of it?

Oates. It was two or three days before he did give his approbation.

Just. Wild. What words did he say?

Oates. He did express his consent; but to say the very words, I cannot tell.

L. C. J. Will you ask him any more?

Pris. I would know the day in August?

L. C. J. He saith he doth not remember the day.

Oates. I believe, I will not be positive in it, it was about the 21st day of August.

Just. Wild. and *Just. Jones.* Was it in August Old-style?

Oates. Yes.

Pris. I can prove I was in Warwickshire at that time. That day he guesseth, the 21st of August, I can make it appear I was fourscore miles off.

L. C. J. You will do well to prove you was there when the guinea was given. Will you ask any more?

Pris. No.

L. C. J. You may say as you will, but Mr. Oates doth charge, that expressly in August (according to the English stile) you were at this Wild-House, and that he saw fourscore pounds prepared. You, Mr. Coleman, asked the question, what preparations were made for the men going to Windsor? It was answered, fourscore pounds are prepared: and yourself gave a guinea for expedition. It is a hard matter to press a man to tell the precise day of the month, but positively he doth say it was in August.

Pris. I was two and twenty or three and twenty days in August in Warwickshire.

L. C. J. What have you now more to say?

Pris. My Lord, I never saw Mr. Oates but in the council-chamber, I never saw him in Rome, in other parts I never saw the face of him, or knew him in my whole life; nor did I see the other till now in court, as I hope to be saved. And then, my lord, as to their testimony, neither of them swear the self same fact.

L. C. J. No man shall be guilty if denial shall make him innocent: they swear to the fact of killing the king, both of them, and that's enough. If one saith you have a plot to poison, that is killing the king; and the other swears a plot to shoot, or stab him, that is to the killing of the king also: then there is your own undertaking, in your letter, under your hand.

Pris. For treason (with submission to your lordship), I hope there is none in that, though there are very extravagant expressions in it. I hope some expressions explain it, that it was not my design to kill the king.

L. C. J. No, your design was for the conversion of three kingdoms, and subduing of that heresy that had reigned so long in this northern part of the world: and for effecting whereof, there were never more hopes since our queen Mary's time till now, and therefore pressing 'the king of France,' to use his power? aid and assistance? and does this signify nothing?

Pris. Doth aid and assistance signify more than money? the word aid in French is power, they are promiscuous words.

L. C. J. You are charged to have had a correspondency and agency with foreign power to subvert our religion, and bring in foreign

authority and power upon us, which must be the necessary consequence: How can this be proved plainer than by your letter, to press the French king that he would use his power?

Pris. Consider the contexture and connection of things, whether the whole series be not to make the king and the duke (as far as I thought in my power) as great as could be.

L. C. J. How well or ill you excuse the fault, that is not the question; they relate to the duke most of them, little to the king. You were carrying on such a design, that you intended to put the duke in the head of, in such method and ways as the duke himself would not approve, but rejected.

Pris. Do not think I would throw any thing upon the duke. Though I might (in the beginning of it) possibly make use of the duke's name, it is possible (they say I did), but can any imagine the people will lay down money 200,000*l.* or 20,000*l.* with me upon the duke's name, and not know whether the duke be in it? And consequently nobody will imagine the duke would ever employ any sum to this king's prejudice or disservice while he lived. I take it for granted (which sure none in the world will deny), that the law was ever made immediately subject to the king or duke: and consequently to the duke, I cannot think this will ever be expounded by the law of England, or the jury, to be treason.

L. C. J. What a kind of way and talking is this? You have such a swimming way of melting words, that it is a troublesome thing for a man to collect matter out of them. You give yourself up to be a great negotiator in the altering of kingdoms, you would be great with mighty men for that purpose; and your long discourses and great abilities might have been spared. The thing these letters do seem to import, is this, That your design was to bring in popery into England, and to promote the interest of the French king in this place, for which you hoped to have a pension (that is plain). The duke's name is often mentioned, that is true; sometimes it appears it is against his will, and sometimes he might know of it, and be told that the consequence was not great. Now say you these sums of money and all that was done, it did relate to the king or duke, and it was to advance their interest, and you thought it was the way to do it. How can this advance them, unless it were done to do them service? And if they do not consent to it, and how can this be treason, what kind of stuff is this? You do seem to be a mighty agent, might not you for a colour use the duke of York's name to drive on the Catholic cause, which you was driven to by the priests mightily, and think to get 200,000*l.* advance money, and a pension for yourself, and make yourself somebody for the present, and secretary of state for the future? If you will make any defence for yourself, or call in witnesses, we will hear them; Say what you can; for these vain inconsequential discourses signify nothing.

Pris. I have witnesses to prove I was in Warwickshire.

L. C. J. (to Boatman a witness). Where was Mr. Coleman in August last?

Boatman. In Warwickshire.

L. C. J. How long?

Boatman. All August, to my best remembrance.

L. C. J. Can you say that he was in Warwickshire all August? that he was not at London?

Boatman. I am not certain what time of the month he was in London.

L. C. J. That he was there in August, may be very true; I do not ask how long he was in Warwickshire, but was he no where else? (To which the witness could make no positive answer.)

Pris. I was at lord Denby's, and at Mr. Francis Fisher's; I was there at least 20 days.

L. C. J. Have you any more witnesses?

Pris. None.

L. C. J. If you have a mind to say any thing more, say what you can.

Pris. I can say nothing more than what I have said. Positively I say, and upon my salvation, I never saw these witnesses, Oates but once, and Bedlow never before.

Mr. Solicitor General, (Sir Francis Winnington):

May it please your Lordship, and you Gentlemen of the Jury; The cause before you (I dare adventure to say) is a cause of as great a nature, and includes as great crimes, as ever came to this bar.

It is not a cause of a particular treason, but it is a treason that runs to the whole; the king, the government, and the Protestant religion, all are comprehended in it.

The defence the prisoner has made is so very short and of so slight a nature, that I shall contract myself very much in what I had to say, and only state to the Court, and Jury, the principal things I rely upon.

The first crime laid in the indictment, is the design of killing and destroying the royal person of his majesty. The second, the subverting of the government, and in doing that, the destruction of the protestant religion.

And these treasons have been punctually proved, as well by two witnesses, as by letters under Mr. Coleman's own hand, whereby he corresponded with M. La Chaise, the French king's confessor, as also by the answers which were sent by M. La Chaise to Mr. Coleman.

As to the proofs made by the witnesses, the substance of them is this: Mr. Oates swears, that in April last O. S., and May N. S., there was a general consult or meeting of the Jesuits, at the White-Horse tavern in the Strand; and afterwards they divided themselves into several companies, or clubs; and in those consults they conspired the death of the king; and contrived how to effect it. The manner of it was thus (as Mr. Oates positively swears): That Grove and Pickering were employed to murder the king; and their design was to pistol him in

St. James's Park. Grove was to have 1,500*l*. in money, and Pickering (being a priest) was to have 30,000 masses, which was computed to be of equal value to 1,500*l*. according to the usual price in the church of Rome. And this conspiracy and contrivance Mr. Coleman was privy to, and did well approve of the same, as Mr. Oates affirmeth upon his oath. So that here is a plain treason proved upon the prisoner, by his assenting to the fact to be done, the law not allowing any accessaries in treason. And this in law makes the prisoner as guilty as any of the assassins, who designed to kill the king with their own hands.

If this design should fail, Mr. Oates swears, that the conspirators intended a further attempt upon the royal person of the king, when he should be at Windsor; and four Irish assassins were provided by Dr. Fogarthy, whose names he would not tell, and fourscore guineas were provided by Father Harcourt, a Jesuit, to maintain the assassins at Windsor, till they should have effected their wicked design.

While the conspiracy was thus in agitation, Mr. Coleman, the prisoner, went to visit Harcourt the Jesuit at his house in town; but finding him not at home, and being informed that he was at Wild-House, Mr. Coleman went thither and found him there; and Mr. Coleman asking what provision Harcourt had made for the gentlemen at Windsor; Harcourt replied, that there were fourscore guineas, which then lay upon the table, which were to be sent to them; and said, that the person who was in the room was to carry them; to which Mr. Coleman replied, he liked it very well; and gave a guinea out of his own pocket to the messenger who was to carry the money to Windsor, to encourage him to expedite the business. But in case the design of killing his majesty at Windsor should be any ways prevented, then there was a further conspiracy to destroy the king by poison. Mr. Oates swears, that in July last, Ashby (a Jesuit) brought instructions to London from Flanders, that in case Pickering and Grove could not kill the king at London, nor the four Irish assassins at Windsor, that 10,000*l*. was to be proposed to sir George Wakeman to poison the king. But it did appear by the letters that passed between White the provincial (here in London) and Ashby, that Mr. Coleman said, he thought 10,000*l*. was too little; and therefore thought it necessary to offer 5,000*l*. more, which afterwards was assented to by the Jesuits abroad. And Mr. Oates swears, he saw letters from the provincial at London to the Jesuits at St. Omers, signifying, that sir George Wakeman had accepted of the proposition, and received 5,000*l*. of the money. By which testimony of Mr. Oates, it plainly appears, that Mr. Coleman, the prisoner at the bar, was privy to the conspiracy, and aiding and abetting to the wicked and damnable design of murdering the king.

The second Witness is Mr. Bedlow, who swears that he was employed by Harcourt, the

Jesuit, to carry packets of letters to M. La Chaise, the French king's confessor; and further says, he was at a consult in France, where the Plot was discoursed on for killing the king; and did bring back an answer from La Chaise to Harcourt in London; and swears particularly, that on the 24th or 25th of May, 1677, he was at Coleman's house with Father Harcourt and some other persons, where Mr. Coleman, discoursing of the great design in hand, said these words following: "That if he had a sea of blood, and an hundred lives, he would lose them all to carry on the design; and if to effect this it were necessary to destroy an hundred heretic kings he would do it." So that here is another positive oath to an act of treason committed by Mr. Coleman, in relation to the murdering the king.

The other part of the Evidence consists of Papers and Letters, which generally relate to prove the latter part of the Indictment, to wit, The extirpation of the protestant religion, and introducing of Popery, and the subverting of the government. And this appears by a Letter written by Mr. Coleman, dated 29 Sept. 1675, and sent to M. La Chaise, the French king's confessor; wherein he gives him an account of the transactions of several years before, and of the correspondence between Mr. Coleman and M. Ferrier predecessor of La Chaise; wherein he does also assert, that the true way to carry on the interest of France and the promoting of the Popish religion here in England, was to get this parliament dissolved; which (says he) had been long since effected, if 300,000*l.* could have been obtained from the French king; and that things yet were in such a posture, that if he had but 20,000*l.* sent him from France, he would be content to be a sacrifice to the utmost malice of his enemies, if the Protestant religion did not receive such a blow as it could not subsist. And the receipt of this Letter was acknowledged by M. La Chaise, in an Answer which he wrote to Mr. Coleman, dated from Paris October 23, 1675, in which he gives him thanks for his good service, in order to the promoting the Popish religion.

Several other letters have been produced and read, which were written by Mr. Coleman to M. Ferrier and others, and more particularly one letter dated August 21, 1674, written by Mr. Coleman to the pope's inter-nuncio at Brussels; wherein he says, the Design prospered so well, that he doubted not but in a little time the business would be managed, to the utter ruin of the Protestant party.

And by other letters he writes to the French king's confessor, that the assistance of his most Christian majesty is necessary, and desires money from the French king to carry on the design.

But there is one letter without date, more bloody than all the rest, which was written to M. La Chaise in some short time after the long letter of Sept. 29, 1675, wherein among

many other things, Coleman expresses himself: "We have a mighty work upon our hands, no less than the conversion of three kingdoms, and the utter subduing of a pestilent heresy, which hath for some time domineered over this Northern part of the world; and we never had so great hopes of it since our queen Mary's days." And in the conclusion of the letter he implores M. La Chaise to get all the aid and assistance he can from France, and that next to God Almighty they did rely upon the mighty mind of his most Christian majesty, and therefore did hope La Chaise would procure money and assistance from him.

Now, any man that considers the contents of these Letters, must needs agree that the latter part of the Indictment, to wit, the treason of endeavouring the subverting the government and the Protestant religion, is fully proved upon Mr. Coleman, the prisoner at the bar; and that these letters were written by him, and the answers received, he does not deny. But all he has to say for himself, is, that it was to make the king of England great; whereas the contrary is most manifest, because the Jesuits who love force and tyranny, always adhere to those princes that are greatest in strength and power. For it appears in history, that when the house of Austria were in their greatness, and like to arrive to the universal monarchy in these parts of the world, the Jesuits all adhered to that house; but since the French king hath grown more mighty in power and greatness, they declined the interest of the Austrian family, and do now promote the counsels of France, thinking that now that king will become the universal monarch.

I shall therefore now conclude the Evidence, only observing to the jury, that the several treasons in the indictment are fully proved. The first, as to the destruction of the royal person of the king, by two witnesses, Mr. Oates and Mr. Bedlow; the other part of it, viz. the subversion of the government, and extirpation of the Protestant religion, by the several letters which have been before remembered, which have not been denied by the prisoner to be his. Therefore I hope, gentlemen, that when you meet with offenders that are guilty of such stupendous crimes, you will do justice upon them, which will be great comfort and satisfaction to the king and all his good Protestant subjects.

Serj. Pemberton. Gentlemen, you hear the crime is of the highest nature, it is the subversion of three kingdoms, and the subduing of that religion which he defames by the name of 'Pestilent Heresy.' It concerns us all to look about us, and all the kingdom, when there shall be a design managed in this manner, to destroy our king, and to take away our religion, and to enslave us all to the pope, and make us all truckle to the priests.

It is wonderful it is capable (at this day) of so great evidence, there is *Digitus Dei* in it, or else it would be impossible such a thing should be made so manifest: all the rest that

is said in the Indictment are but circumstances that declare it: there is a strong evidence of many matters of fact in this design, which declare the intention hatched in his breast for many years together: here hath been a design to kill the king, and he doth not only consent to it, but commend it; what can be said to his giving the money to him that was to pay the fourscore pieces of gold to those ruffians sent to Windsor? and adding 5,000*l.* to the 10,000*l.* for the doctor that was to poison the king? He denies all.

No question but a man that hath had a heart to design such contrivances, will have the face to deny it publicly: it is a thing to be acted in the dark. But there is both Mr. Oates and Mr. Bedlow plainly prove it upon him, that he consented to the acting the king's death. What is the sense of his letters, but to shew his design, and to beg the assistance of France to them in their necessities? The whole current is to destroy our religion, I think you, gentlemen of the jury, have had such evidence as will satisfy any man.

Prisoner. I deny all Mr. Oates's testimony, for his saying to the council he did not know me because he could not see me, when I was as near as the next gentleman but one, but knew me when I spake, and I spoke to almost all the matters asked. He accuseth me of a thing in August, but names not the day: now if there be one error in his testimony, it weakens all the rest. I went out of town on the 10th of August, it was the latter end I came home, about the middle of Bartholomew fair, the last day of August.

L. C. J. Have you any witness to prove that?

Pris. I cannot say I have a witness.

L. C. J. Then you say nothing.

Pris. People cannot speak to a day, to a thing they neither imagined or thought of.

L. C. J. I ask your servant, do you know when Mr. Coleman went out of town?

Coleman's Serv. In August; I cannot say particularly the day.

L. C. J. Do you know when he came home?

Serv. I cannot remember.

Just. Wyld. Where was you the last Bartholomew-day?

Serv. I was in town.

Just. Wyld. Where was your master?

Serv. I do not remember.

L. C. J. You say you went out of town the 10th, and came home the last of August; you say it is impossible that he should say right, but yet you do not prove it.

Pris. I have no more to say but I entered down all my expences every day in a book, which book will shew where I was.

L. C. J. Where is your book?

Pris. At my lodgings in Vere-Street by Covent-Garden; in a trunk that came by the carrier, that will shew when they were sent.

L. C. J. If the cause did turn upon that matter, I would be well content to sit until the book was brought; but I doubt the cause will not stand upon that foot; but if that were

the case it would do you little good. Observe what I say to the jury.

My Lord Chief Justice his Speech to the Jury upon his summing up of the Evidence.

Gentlemen of the jury; my care at this time shall be to contract this very long evidence, and to bring it within a short compass, that you may have nothing before you to consider of, as near as I can, but what is really material to the acquitting or condemning of Mr. Coleman.

The things he is accused of are two sorts; the one is, to subvert the Protestant religion and to introduce Popery: the other was to destroy and kill the king. The evidence likewise was of two sorts; the one by letters of his own hand-writing, and the other by Witnesses *viva voce*. The former he seems to confess, the other totally to deny.

For that he confesseth, he does not seem to insist upon it, that the letters were not his, he seems to admit they were; and he rather makes his defence by expounding what the meaning of these letters were, than by denying himself to be the author.

I would have you take me right, when I say he doth admit; he doth not admit the construction, that the king's counsel here makes upon them; but he admits that these letters were his. He admits it so far, that he does not deny them. So that you are to examine what these letters import in themselves, and what consequences are naturally to be deduced from them.

That which is plainly intended, is to bring in the Roman Catholic, and to subvert the Protestant Religion. That which is by consequence intended, was the killing the king, as being the most likely means to introduce that, which, as it is apparent by his letters, was designed to be brought in.

For the first part of the Evidence. All his great long letter that he wrote, was to give the present confessor of the French king an account of what had passed between him and his predecessor; by which agency, you may see that Mr. Coleman was in with the former confessor.

And when he comes to give an account of the three years transactions to this present confessor, and to begin a correspondence with him, about what is it? Why, the substance of the heads of the long Letter comes to this. It was to bring in the Catholic as he called it, (that is) the Romish Catholic religion, and to establish that here; and to advance an interest for the French king, be that interest what it will.

It is true his letters do not express what sort of interest, neither will I determine: but they say it was to promote the French king's interest, which Mr. Coleman would expound in some such sort, as may consist with the king of England's and the duke of York's interest. But this is certain, it was to subvert our religion, as it is now by law established. This

was the great end thereof, it cannot be denied: to promote the interest, I say, of the French king, and to gain to himself a pension as a reward of his service, is the contents of his first long letter, and one or two more concerning that pension.

His last letters expound more plainly what was meant by the French king's interest. "We are" (saith he) "about a great work, no less than the conversion of three kingdoms, and the total and utter subversion and subduing of that pestilent heresy" (that is the Protestant Religion) "which hath reigned so long in this Northern part of the world; and for the doing of which, there never was such great hopes since our queen Mary's days, as at this time."

Now this plainly shews, that our religion was to be subverted, Popery established, and the three kingdoms to be converted; that is, indeed, to be brought to confusion. For I say, that when our religion is to be subverted, the nation is to be subverted and destroyed, that is most apparent: for there could be no hope of subverting or destroying the Protestant religion, but by a subversion not conversion of the three kingdoms. How was it to be done otherwise? Why, I would have brought this religion in (says he) by dissolving of the parliament. I would have brought it in by an edict and proclamation of Liberty of Conscience. In these ways I would have brought it in.

Mr. Coleman knows it is not fit for him to own the introducing of his religion by the murder of the king, or by a foreign force. The one was too black and the other too bloody, to be owned. And few people (especially the English) will be brought to save their lives (as he may do his) by confession of so bloody and barbarous a thing, as an intention to kill the king, or of levying a war; which, though it be not a particular, is a general murder. I say, it was not convenient for Mr. Coleman, when he seems to speak something for himself, to give such an account, how he would have done it; Therefore he tells us, he would have done it by the dissolving of the parliament and by toleration of religion. Now I would very fain know of any man in the world, whether this was not a very fine and artificial covering of his design for the subversion of our religion?

Pray, how can any man think, that the dissolving of the parliament could have such a mighty influence to that purpose? it is true, he might imagine it might in some sort contribute towards it: yet it is so doubtful, that he himself mistrusts it. For he is sometimes for the dissolving of the parliament, and other times not, as appears by his own papers: for which we are not beholden to him, so much as for any one, more than what were found by accident, and produced to the king and council. But in truth, why should Mr. Coleman believe that another parliament (if this parliament were dissolved) should comply with Popery; that is to say, That there should be great hopes of bringing in of Popery by a new parliament?

unless he can give me a good reason for this, I shall hold it as insignificant and as unlikely to have that effect, as his other way by a general toleration.

And therefore next, Upon what ground does he presume this? I do assure you, that man does not understand the inclinations of the English people, or knows their tempers, that thinks, if they were left to themselves and had their liberty, they would turn Papists. It is true, there are some amongst us that have so little wit as to turn Fanatics, but there is hardly any, but have much more wit than to turn Papists. These are therefore the counterfeit pretensions of Mr. Coleman.

Now, if not by these means, in what way truly did he intend to bring in Popery? why, his own letters plainly convict him of one step towards it, in endeavouring with foreign powers to bring in that religion, and to subvert ours. And for the other way of doing it, by killing the king; I leave it to you whether there were any more probable way than that indeed to do it.

And could he think, that the French king would not have thought himself cozened of his money, if he had not given him hopes that he would use the most probable methods that he could, to effect his design?

Therefore, there must be more in it: for he that was so earnest for that religion, would not have stuck at any violence to bring it in; he would not have stuck at blood. For we know their doctrines and their practices, and we know well, with what zeal the priests push them forward to venture their own lives, and to take away other mens, that differ from them, to bring in their religion, and to set up themselves. For indeed in the kingdoms and countries where Popery reigns, the priests have dominion over men's consciences, and power over their purses. And they use all arts imaginable of making proselytes, and take special care, that those in their communion shall know no more than the priests shall give them leave to understand. And for this reason they prohibit the use of all books without their licence. This blind obedience begets blind ignorance, and this is a great subtilty of theirs to keep them in it, that they may perfectly submit to them.

What cannot they command, when they have made others slaves in their understandings, and that they must know no more, than what they give them leave to know? but in England it is not so, Mr. Coleman; and therein you would have found a great disappointment. For if liberty of conscience had been tolerated here, that the consequence of it would have been Popery, I deny.

Nothing is more unlikely; for though in the short reign of queen Mary, Popery came in for some time, which was but for a little time, and then the people were not so well grounded in the Protestant religion, nor in the principles of it: but now they are, inasmuch, that scarce a collier but is able to baffle any Roman

priest that ever I saw or met with. And thanks be to God we have a preaching ministry, and the free use of the Scriptures allowed amongst us, which they are not permitted to have.

And after this I wonder, that a man, who hath been bred up in the Protestant religion (as I have reason to believe that you Mr. Coleman have been,) for (if I am not misinformed) your father was a minister in Suffolk; for such an one to depart from it, is an evidence against you, to prove the Indictment. I must make a difference between us, and those who have been always educated that way, and so are under the prepossession of their education, which is a difficult thing to be overcome.

And I do assure you, there are but two things, that I know of, can make one do it, interest, or gross ignorance. No man of understanding, but for by-ends, would have left his religion to be a Papist. And for you, Mr. Coleman, who are a man of reason and subtilty, I must tell you (to bring this to yourself) upon this account, that it could not be conscience, I cannot think it to be conscience. Your pension was your conscience, and your Secretary's place your bait.

For such men (I say) as have been bred up in the Protestant religion, and left it, I can hardly presume that they do it out of conscience, unless they do it upon a mighty search, not leaning upon their own understanding and abilities, not hearing of one side alone. Conscience is a tender thing, conscience will tremble when it leaves the religion it has been bred in, and its sincerity is shown by being fearful, lest it should be in the wrong. No man may pretend to conscience truly, that takes not all courses imaginable to know the right, before he lets his religion slip from him.

Have we so soon forgot our reverence to the late king, and the pious advice he left us? A king that was truly a Defender of the Faith, not only by his title, but by his abilities and writings. A king, who understood the Protestant religion so well, that he was able to defend it against any of the cardinals of Rome. And when he knew it so thoroughly, and died so eminently for it, I will leave this characteristic note, That whosoever after that departs from his judgment, had need have a very good one of his own, to bear him out.

I do acknowledge, many of the popish priests formerly were learned men, and may be so still, beyond the seas: but I could never yet meet with any here, that had other learning or ability but artificial only, to delude weak women, and weaker men. They have, indeed, ways of conversion, and conviction, by enlightening our understandings with a faggot, and by the powerful and irresistible arguments of a dagger: But these are such wicked solecisms in their religion, that they seem to have left them neither natural sense, nor natural conscience, not natural sense, by their absurdity, in so unreasonable a belief, as of the wine turned into blood: Not natural conscience, by their cruelty, who make the Protes-

tants blood as wine, and these priests thirst after it; 'Tantum religio potuit suadere malorum?'

Mr. Coleman, in one of his letters, speaks of routing out 'our religion and party;' And he is in the right, for they can never root out the Protestant religion, but they must kill the Protestants. But let him and them know, if ever they shall endeavour to bring popery in, by destroying of the king, they shall find, that the papists will thereby bring destruction upon themselves, so that not a man of them would escape—'Ne Catulus quidem relinquendus.' Our execution shall be as quick as their gunpowder, but more effectual. And so, gentlemen, I shall leave it to you, to consider, what his Letters prove him guilty of directly, and what by consequence; What he plainly would have done, and then, how he would have done it; And whether you think his fiery zeal had so much cold blood in it, as to spare any others? For the other part of the Evidence, which is by the testimony of the present witnesses, you have heard them. I will not detain you longer now, the day is going out.

Mr. J. Jones. You must find the prisoner guilty, or bring in two persons perjured.

L. C. J. Gentlemen, If your consultation shall be long, then you must lie by it all night, and we will take your verdict to-morrow morning. If it will not be long, I am content to stay a while.

Jury. My lord, we shall be short.

J. Wyld. We do not speak to you to make more haste, or less, but to take a full consultation, and your own time; There is the death of a man at the stake, and make not too much haste. We do not speak it on that account.

The Jury went from the bar, and returned.

Court. Are you all agreed of your verdict?

Jury. Yes.

Court. Who shall speak for you?

Jury. The foreman.

Court. Edward Coleman, hold up thy hand?

Court. Is Edward Coleman Guilty of the high-treason whereof he stands indicted, or Not Guilty?—Jury. Guilty, my lord.

Court. What goods, chattels, &c.

Prisoner. You were pleased to say to the jury, that they must either bring me in Guilty, or two persons perjured; I am a dying man, and upon my death, and expectation of salvation, declare, That I never saw these two gentlemen, excepting Mr. Oates, but once in all my life, and that was at the council table.

L. C. J. Mr. Coleman, your own papers are enough to condemn you.

Court. Capt. Richardson, you must bring Mr. Coleman hither again to-morrow morning to receive his Sentence.

The Day following, being November the 28th, Mr. Coleman was brought to the Bar, to receive his Sentence, and the Court proceeded thereupon as followeth:

L. C. J. Ask him what he can say for himself: Make silence, crier.

Cl. of Cr. Edward Coleman, hold up thy hand. Thou hast been indicted of high treason, thou hast thereunto pleaded Not Guilty; thou hast put thyself upon God and thy country, which country hath found thee Guilty; What canst thou say for thyself, wherefore judgment of death should not be given against thee, and an execution awarded according to law?

Mr. Coleman. May it please you, my lord, I have this to say for myself; As for my papers, I humbly hope, (setting aside Oral Testimony) that I should not have been found guilty of any crime in them, but what the act of grace would have pardoned, and I hope I shall have the benefit of that; The evidence against me, namely Oral, I do humbly beg that you would be pleased to give me a little time to shew you, how impossible it is that those testimonies should be true; For that testimony of Mr. Oates in August, my man, that is now either in the court or hall, hath gotten a book that is able to make it appear, that I was out of town from the 15th of August to the 31st of August late at night.

L. C. J. That will not do, Mr. Coleman.

Coleman. I do humbly offer this, for this reason; because Mr. Oates, in all his other evidences, was so punctual, as to distinguish between Old Stile and New, he never missed the month, hardly the week, and oftentimes put the very day; for his testimony that he gave against me, was, that it was the 21st of August.

L. C. J. He thought so, but he was not positive, but only as to the month.

Coleman. He was certain it was the latter end of August, and that about Bartholomew-tide.

L. C. J. He conceived so, he thought so.

Coleman. Now if I was always out of town from the 15th day of August, to the 31st late at night, it is then impossible, my lord, that should be a true testimony. Your lordship was pleased to observe, that it would much enervate any man's testimony, to the whole, if he could be proved false in any one thing. I have further in this matter to say, besides my man's testimony, the king hath, since I have been seized on, seized on my papers and my book of accounts, where I used punctually to set down where I spent my money; and if it doth not appear by that book that I was all those days and times, and several other days in August, to be out of town, I desire no favour. You cannot suppose, my lord, nor the world believe, that I prepared that book for this purpose in this matter; and I can make it appear by others, if I had time; but I only offer this to your lordship, that seeing Mr. Oates did name so many particulars and circumstances, it is very strange, that he should fail in a particular of such importance as about killing the king; and no man living of common sense would think or believe that I should speak about such a thing in company that I did not well know, and this to be done frequently and oftentimes, as he asserts it; when Oates seemed to the king and

council (and I believe the king himself remembers it) when I was examined; that he did not know me, that he knew nothing of me, so that here is two things against this witness that can hardly happen again.—My circumstances are extraordinary, and it is a great providence, and I think your lordship and the whole world will look upon it as such, if for any crimes that are in my papers, if there be any mercy to be shewed me by the king's gracious act of pardon, I humbly beg that I may have it.

L. C. J. None.

Coleman. If none, I do humbly submit; but I do humbly hope with submission, that those papers would not have been found treasonable papers.

L. C. J. Those letters of yours, Mr. Coleman, were since the act of pardon; your papers bear date 1674, 1675, and there hath been no act since. But as for what you say concerning Mr. Oates, you say it in vain now, Mr. Coleman, for the jury hath given in their verdict; and it is not now to be said, for after that rate we shall have no end of any man's trial; but for your satisfaction, Mr. Coleman, to the best of my remembrance, Mr. Oates was positive only as to the month of August, he thought it might be about the 21st day, or about Bartholomew fair time; but he was absolute in nothing but the month.

Coleman. He was punctual in all his other evidences, but in this he was not; and when I was examined at the council table, he said he knew little of me.

L. C. J. He charged you positively for having held conspiracy to poison the king; and that there was 10,000*l.* to be paid for it, and afterwards there was 5,000*l.* more to be added; and he positively charges you to be the person that amongst all the conspirators was reputed to pay the 5,000*l.*

Coleman. He said it after such a fashion.

L. C. J. He said it after such a fashion that sir Robert Somphwell and sir Thomas Doleman satisfied us that he did the thing, and that plainly to his understanding; and what say you he said?

Coleman. That he did not know me.

L. C. J. Neither of them say so, that he said he did not know you, they deny it.

Coleman. He said so, upon my death.

L. C. J. It is in vain to dispute it further, there must be an end.

Crier, make O Yes! Our sovereign lord the king doth straitly charge and command all persons to keep silence while Judgment is given upon the prisoner convict, upon pain of imprisonment.

L. C. J. You are found guilty, Mr. Coleman, of high treason, and the crimes are several that you are found guilty of. You are found guilty of conspiring the death of the king; you are likewise found guilty of endeavouring to subvert the Protestant religion as it is by law established, and to bring in popery, and this by the aid and assistance of foreign powers. And I would not have you, Mr. Coleman, in your

last apprehension of things, to go out of the world with a mistake, if I could help it; that is, I would not have you think, that though you only seem to disavow the matter of the death of the king, that therefore you should think yourself an innocent man. You are not innocent, I am sure; for it is apparent by that which cannot deceive, that you are guilty of contriving and conspiring the destruction of the Protestant religion, and to bring in Popery, and that by the aid and assistance of foreign powers, and this no man can free you in the least from. And know, that if it should be true, that you would disavow, that you had not an actual hand in the contrivance of the king's death (which two witnesses have sworn positively against you): Yet he that will subvert the Protestant religion here, and bring in consequently a foreign authority, does an act in derogation of the crown, and to diminution of the king's title and sovereign power, and endeavours to bring a foreign dominion both over our consciences and estates. And if any man shall endeavour to subvert our religion to bring in that, though he did not actually contrive to do it by the death of the king, or it may be not by the death of any one man, yet whatsoever follows upon that contrivance, he is guilty of; insomuch it is greatly to be feared, that though you meant only to bring it in by the way of dissolving of parliaments, or by liberty of conscience, and such kind of innocent ways as you thought; yet if so be those means should not have proved effectual, and worse should have been taken (though by others of your confederates) for to go through with the work, as we have great reason to believe there would, you are guilty of all that blood that would have followed. But still you say you did not design that thing; but to tell you, he that doth a sinful and unlawful act, must answer, and is liable both to God and man, for all the consequences that attend it, therefore I say you ought not to think yourself innocent. It is possible you may be penitent, and nothing remains but that. And as I think in your church you allow of a thing called attrition, if you cannot with our church have contrition, which is a sorrow proceeding from love, pray make use of attrition, which is a sorrow arising from fear. For you may assure yourself, there are but a few moments betwixt you and a vast eternity where will be no dallying, no arts to be used, therefore think on all the good you can do in this little space of time that is left you; all is little enough to wipe off (besides your private and secret offences) even your public ones. I do know that confession is very much owned in your church, and you do well in it; but as your offence is public, so should your confession be; and it will do you more service than all your auricular confessions. Were I in your case, there should be nothing at the bottom of my heart that I would not disclose. Perchance you may be deluded with the fond hopes of having your sentence respited. Trust not to it, Mr. Coleman. You may be flattered to

stop your mouth, till they have stopped your breath, and I doubt you will find that to be the event. I think it becomes you as a man, and as a christian, to do all that is now in your power, since you cannot be white, to make yourself as clean as you can, and to fit yourself for another world, where you will see how vain all resolutions of obstinacy, of concealment, and all that sort of bravery which perhaps may be instilled by some men, will prove. They will not then serve to lessen, but they will add to your fault. It concerns us no farther than for your own good, and do as God shall direct you; for the truth is, there are persuasions and inducements in your church to such kind of resolutions and such kind of actions, which you are led into by false principles and false doctrines (and so you will find when you come once to experiment it, as shortly you will) that hardly the religion of a Turk would own. But when Christians by any violent bloody act attempt to propagate religion, they abuse both their disciples and religion too, and change that way that Christ himself taught us to follow him by. It was not by blood or violence; by no single man's undertaking to disturb and to alter governments; to make hurly-buries, and all the mischiefs that attend such things as these are.

For a church to persuade men even to the committing of the highest violences under a pretence of doing God good service, looks not (in my opinion) like religion, but design; like an engine, not a holy institution; artificial as a clock, which follows not the sun but the setter; goes not according to the bible, but the priest, whose interpretations serve their particular ends, and those private advantages which true religion, would scorn, and natural religion itself would not endure. I have, Mr. Coleman, said thus much to you as you are a christian, and as I am one; and I do it out of great charity and compassion, and with great sense and sorrow that you should be misled to these great offences under pretence of religion. But seeing you have but a little time, I would have you make use of it to your best advantage; for I tell you, that though death may be talked of at a distance in a brave heroic way, yet when a man once comes to the minute, death is a very serious thing; then you will consider how trifling all plots and contrivances are, and to how little purpose is all your concealments. I only offer these things to your thoughts, and perhaps they may better go down at such a time as this is than at another; and if they have no effect upon you, I hope they will have some as to my own particular, in that I have done my good will. I do remember you once more, that in this matter you be not deluded with any fantastic hopes and expectations of a pardon, for the truth is, Mr. Coleman, you will be deceived; therefore set your heart at rest, for we are at this time in such disorders, and the people so continually alarmed either with secret murders, or some outrages and violences that are this day on foot, that though the king, who is full of mercy almost

to a fault, yet if he should be inclined that way I verily believe both Houses would interpose between that and you. I speak this to shake off all vain hopes from you; for I tell you, I verily believe they would not you should have any twig to hold by to deceive you: so that now you may look upon it, there is nothing will save you, for you will assuredly die as now you live, and that very suddenly. In which I having discharged my conscience to you as a christian, I will now proceed to pronounce Sentence against you, and do my duty as a judge.

You shall return to prison, from thence to be drawn to the place of execution, where you shall be hanged by the neck, and be cut down alive, your bowels burnt before your face, and your quarters severed, and your body disposed of as the king thinks fit; and so the Lord have mercy upon your soul.

Coleman. My lord, I humbly thank your lordship, and I do admire your charity, that you would be pleased to give me this admirable counsel, and I will follow it as well as I can, and I beg your lordship to hear me what I am going to say: Your lordship, most christian-like, hath observed wisely, that confession is extremely necessary to a dying man, and I do so too; but that confession your lordship I suppose means, is of a guilty evil conscience in any of these points that I am condemned for, 'Of maliciously contriving,' &c. If I thought I had any such guilt, I should assuredly think myself damned now I am going out of the world by concealing them, in spite of all pardons or indulgences, or any act that the Pope or the Church of Rome could do for me, as I believe any one article of faith. Therefore pray hear the words of a dying man; I have made a resolution, I thank God, not to tell a lie, no not a single lie, not to save my life. I hope God will not so far leave me as to let me do it; and I do renounce all manner of mercy that God can shew me, if I have not told the House of Commons, or offered it to the House of Commons, all that I know in my whole heart toward this business; and I never in all my life either made any proposition, or received any proposition, or knew or heard directly or indirectly of any proposition towards the supplanting or invading the king's life, crown or dignity, or to make any invasion or disturbance to introduce any new government, or to bring in popery by any violence or force in the world; if I have, my lord, been mistaken in my method, as I will not say but I might have been; for if two men differ, one must be mistaken; therefore possibly I might be of an opinion, that popery might come in if liberty of conscience had been granted; and perhaps all Christians are bound to wish all people of that religion that they profess themselves, if they are in earnest: I will not dispute those ill that your lordship may imagine to be in the Church of Rome; if I thought there was any in them, I would be sure to be none of it. I have no design, my lord, at all in religion but to be saved; and I had no manner of invitation to invite me

to the Church of Rome, no not one, but to be saved; if I am out of the way, I am out of the way, as to the next world as well as this; I have nothing but a sincere conscience, and I desire to follow it as I ought. I do confess I am guilty of many crimes, and I am afraid all of us are guilty in some measure, of some failings and infirmities; but in matters of this nature that I now stand condemned for, though I do not at all complain of the court; for I do confess I have had all the fair play imaginable, and I have nothing at all to say against it; but I say as to any one act of mine, so far as acts require intention to make them acts, as all human acts do, I am as innocent of any crime that I now stand charged as guilty of, as when I was first born.

L. C. J. That is not possible.

Coleman. With submission, I do not say innocent as to any crime in going against any act of parliament, then it is a crime to hear mass, or to do any act that they prohibit; but for intending and endeavouring to bring in that religion by the aid and assistance of the king of France, I never intended nor meant by that aid and assistance, any force in the world, but such aids and assistances as might procure us liberty of conscience. My lord, if in what I have said nobody believes me, I must be content; if any do believe me, then I have wiped off those scandalous thoughts and abominable crimes, that, &c. and then I have paid a little debt to truth.

L. C. J. One word more, and I have done. I am sorry, Mr. Coleman, that I have not charity enough to believe the words of a dying man; for I will tell you what sticks with me very much: I cannot be persuaded, and nobody can, but that your Correspondence and Negotiations did continue longer than the Letters that we have found, that is, after 1675. Now if you had come and shown us your Books and Letters, which would have spoke for themselves, I should have thought then that you had dealt plainly and sincerely, and it would have been a mighty motive to have believed the rest; for certainly your correspondence held even to the time of your apprehension, and you have not discovered so much as one paper, but what was found unknown to you, and against your will.

Coleman. Upon the words of a dying man, and upon the expectation I have of salvation, I tell your lordship, that there is not a book nor a paper in the world that I have laid aside voluntarily.

L. C. J. No, perhaps you have burnt them.

Coleman. Not by the living God.

L. C. J. I hope, Mr. Coleman, you will not say no manner of way.

Coleman. For my correspondence these two last years past, I have given an account of every letter; but those that were common letters, and those books that were in my house, what became of them I know not; they were common letters that I used to write every day, a common journal what past at home and

abroad. My men they writ them out of that book.

L. C. J. What became of those letters?

Coleman. I had no letters about this business, but what I have declared to the House of Commons, that is, letters from St. Germans, which I owned to the House of Commons; and I had no methodical correspondence, and I never valued them nor regarded them, but as they came I destroyed them.

L. C. J. I remember the last letter that is given in evidence against you, discovers what mighty hopes there was, that the time was now come wherein that pestilent heresy, that hath domineered in this northern part of the world, should be extirpated; and that there never was greater hopes of it since our queen Mary's reign. Pray, Mr. Coleman, was that the concluding letter in this affair?

Coleman. Give me leave to say it upon the word of a dying man, I have not one letter, &c.

L. C. J. What though you burnt your letters, you may recollect the contents.

Coleman. I had none since—

L. C. J. Between God and your conscience be it, I have other apprehensions; and you deserve your Sentence upon you for your offences, that visibly appear out of your own papers, that you do not, and cannot deny.

Coleman. I am satisfied. But seeing my time is but short, may I not be permitted to have some immediate friends, and my poor wife to have her freedom to speak with me, and stay with me that little time that I have, that I might speak something to her in order to her living and my dying?

L. C. J. You say well, and it is a hard case to deny it; but I tell you what hardens my heart, the insolencies of your party (the Roman Catholics I mean) that they every day offer, which is indeed a proof of their Plot, that they are so bold and impudent, and such secret murders committed by them, as would harden any man's heart to do the common favours of justice and charity, that to mankind are usually done: they are so bold and insolent, that I think it is not to be endured in a Protestant kingdom; but for my own particular, I think it is a very hard thing for to deny a man the company of his wife, and his friends, so it be

done with caution and prudence. Remember that the Plot is on foot, and I do not know what arts the priests have, and what tricks they use; and therefore have a care, that no papers, nor any such thing, be sent from him.

Coleman. I do not design it, I am sure.

L. C. J. But for the company of his wife and his near friends; or any thing in that kind, that may be for his eternal good, and as much for his present satisfaction that he can receive now in the condition that he is in, let him have it; but do it with care and caution.

Capt. Richardson. What, for them to be private alone?

L. C. J. His wife, only she, God forbid else. Nor shall you be denied any Protestant minister.

Coleman. But shall not my cousin Coleman have liberty to come to me?

L. C. J. Yes, with Mr. Richardson.

Coleman. Or his servant; because it is a great trouble for him to attend always.

L. C. J. If it be his servant, or any he shall appoint, it is all one. Mr. Richardson, use him as reasonably as may be, considering the condition he is in.

Cler. Cr. Have a care of your prisoner.

On Tuesday the 3d of December following, Edward Coleman was drawn on a sledge from Newgate to Tyburn; and being come thither, he declared that he had been a Roman Catholic for many years, and that he thanked God he died in that religion, and he did not think that religion at all prejudicial to the king and government.

The Sheriff told him, if he had any thing to say by way of confession or contrition, he might proceed, otherwise it was not seasonable for him to go on with such like expressions. Being asked if he knew any thing of the murder of sir Edmund. Godfrey, he declared upon the words of a dying man, he knew not any thing of it, for that he was a prisoner at that time. Then after some private prayers and ejaculations to himself, the sentence was executed.

He had been made to believe, that he should have a pardon, which he depended on with so much assurance, that a little before he was turned off, finding himself deceived, he was heard to say, 'There is no faith in man.'

245. The Trial of WILLIAM IRELAND, THOMAS PICKERING,
and JOHN GROVE, at the Old Bailey, for High Treason:
30 CHARLES II. A. D. 1678.*

ON Tuesday the 17th day of December, 1678, Thomas White alias Whitebread, Wm. Ireland, John Fenwick, Thomas Pickering and John Grove, were brought from his majesty's gaol of Newgate to the Sessions-house at Justice-Hall in the Old Bailey, being there indicted for High Treason, for contriving and conspiring to murder the king, to receive their trial; and the Court proceeded thereupon as followeth:

The Court being sat, proclamation was made for attendance, thus:

Clerk of Crown. Crier, make proclamation.

Crier. O yes, O yes, O yes! All manner of persons that have any thing to do at this general sessions of the peace, sessions of Oyer and Terminer holden for the city of London, and gaol-delivery of Newgate, holden for the city of London and county of Middlesex, draw near and give your attendance, for now the Court will proceed to the pleas of the crown for the same city and county. God save the king.

Cl. of Cr. Crier, make proclamation.

Crier. O yes! All manner of persons are commanded to keep silence upon pain of imprisonment. Peace about the Court.

Cl. of Cr. Crier, make proclamation.

Crier. O yes! You good men of the county of Middlesex that are summoned to appear here this day, to enquire between our sovereign lord the king and the prisoners that are and shall be at the bar, answer to your names as you shall be called, every one at the first call, and save your issues.

The Jurors being called and the defaulters recorded, the Clerk of the Crown called for the prisoners to the bar, viz. Thomas White alias Whitebread, William Ireland, John Fenwick, Tho. Pickering and John Grove, and arraigned them thus:

Cl. of Cr. Thomas White alias Whitebread, hold up thy hand: Which he did. William Ireland, hold up thy hand: Which he did. John Fenwick, hold up thy hand: Which he

did. Thomas Pickering, hold up thy hand: Which he did. John Grove, hold up thy hand: Which he did.

You stand indicted by the names of Thomas White alias Whitebread, late of the parish of St. Giles in the fields, in the county of Middlesex, clerk: William Ireland, late of the same parish and county, clerk: John Fenwick, late of the same parish and county, clerk: Thomas Pickering, late of the same parish and county, clerk: and John Grove, late of the same parish and county, gent. For that you five, as false traitors, &c. against the peace of our sovereign lord the king, his crown and dignity, and against the form of the statute in that case made and provided. How sayest thou, Thomas White alias Whitebread, art thou Guilty of this High Treason whereof thou standest indicted, or Not Guilty?

Whitebread. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Whitebread. By God and my Country.

Cl. of Cr. God send thee a good deliverance. How sayest thou, William Ireland, art thou Guilty of the same High Treason, or Not Guilty?

Ireland. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Ireland. By God and my Country.

Cl. of Cr. God send thee a good deliverance. How sayest thou, John Fenwick, art thou Guilty of the same High Treason, or Not Guilty?

Fenwick. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Fenwick. By God and my Country.

Cl. of Cr. God send thee a good deliverance. How sayest thou, Thomas Pickering, art thou Guilty of the same High Treason, or Not Guilty?

Pickering. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Pickering. By God and my Country.

Cl. of Cr. God send thee a good deliverance. How sayest thou, John Grove, art thou Guilty of the same High Treason, or Not Guilty?

Grove. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Grove. By God and my Country.

Cl. of Cr. God send thee a good deliverance. You the prisoners at the bar, those men that you shall hear called and do personally appear, are to pass between our sovereign lord the king and you, upon trial of your several lives and deaths; if therefore you or any of you will challenge them or any of them, your time is to speak unto them as they come to the book to be sworn, before they be sworn. Sir Philip Matthews to the book.

* From a pamphlet, intitled: "The Trials of William Ireland, Thomas Pickering, and John Grove; for conspiring to Murder the King: who upon full evidence were found Guilty of High Treason, at the Sessions-House in the Old Bailey, December 17, 1678. And received Sentence accordingly. London, printed for Robert Pawlet at the Bible in Chancery-lane, near Fleet-street, 1678. 'December 17, 1678. I do appoint Robert Pawlet to print the Trials of William Ireland, Thomas Pickering, and John Grove: And that no other person presume to print the same. WILLIAM SCROGGS.'"

* See the Introduction to the Trials for the Popish Plot, ante, vol. 6, p. 1420.

Sir Philip Matthews. I desire sir William Roberts may be called first. Which was granted.

Cl. of Cr. Sir William Roberts to the hook. Look upon the prisoners. You shall well and truly try, and true deliverance make between our sovereign lord the king and the prisoners at the bar, whom you shall have in your charge, according to your evidence. So help you God.

The same oath was administered to the rest, the prisoners challenging none, and their names in order were thus: Sir William Roberts, bt.; sir Philip Matthews, bt.; sir Charles Lee, kt.; Edward Wilford, esq.; John Foster, esq.; Joshua Galliard, esq.; John Byfield, esq.; Thomas Eglesfield, esq.; Tho. Johnson, esq.; John Pulford, esq.; Thomas Earnesby, esq.; Richard Wheeler, gent.

Cl. of Cr. Crier, count these. Sir William Roberts.

Crier. One, &c.

Cl. of Cr. Richard Wheeler.

Crier. Twelve good men and true, stand together and hear your evidence.

Cl. of Cr. Crier, make proclamation.

Crier. O yes! If any one can inform my Lords the king's Justices, the king's Serjeant, the king's Attorney, or this Inquest now to be taken between our sovereign lord the king and the prisoners at the bar, let them come forth and they shall be heard, for now the prisoners stand at the bar upon their deliverance: and all others that are bound by recognizance to give evidence against any of the prisoners at the bar, let them come forth and give their evidence, or else they forfeit their recognizance. And all jurymen of Middlesex that have been summoned and have appeared, and are not sworn, may depart the court and take their ease.

Cl. of Cr. Make proclamation of silence.

Crier. O yes! All manner of persons are commanded to keep silence, upon pain of imprisonment.

Cl. of Cr. Thomas White alias Whitebread, hold up thy hand: Which he did, and so of the rest. You that are sworn, look upon the prisoners, and hearken to their cause,

You shall understand, that they stand indicted by the names of Thomas White otherwise Whitebread, late of the parish of St. Giles in the Fields in the county of Middlesex, clerk; William Ireland, late of the same parish in the county aforesaid, clerk; John Fenwick, late of the same parish in the county aforesaid, clerk; Thomas Pickering, late of the same parish in the county aforesaid, clerk; and John Grove, late of the same parish in the county aforesaid, gentleman: For that they as false traitors of the most illustrious, serene, and most excellent prince, our sovereign lord Charles 2, by the grace of God of England, Scotland, France, and Ireland, king, defender of the faith, &c. their supreme and natural lord, not having the fear of God in their hearts, nor the duty of their allegiance any ways

weighing, but being moved and seduced by the instigation of the devil, the cordial love, and true, due, and natural obedience, which true and faithful subjects of our said sovereign lord the king towards our said sovereign lord the king should and of right ought to bear, altogether withdrawing, and endeavouring, and with their whole strength intending, the peace and common tranquillity of this kingdom of England to disturb, and the true worship of God within this kingdom of England used, and by law established, to overthrow; and to move, stir up, and procure rebellion within this kingdom of England, and the cordial love, and true and due obedience, which true and faithful subjects of our said sovereign lord the king toward our said sovereign lord the king should and of right ought to bear, wholly to withdraw, vanquish, and extinguish, and our said sovereign lord the king to death and final destruction to bring and put, the 24th day of April, in the year of the reign of our said sovereign lord Charles 2, by the grace of God of England, Scotland, France, and Ireland, king, defender of the Faith, &c. the 30th, at the parish of St. Giles in the Fields aforesaid, in the county of Middlesex aforesaid, falsely, maliciously, deceitfully, advisedly, and traitorously, they did propose, compass, imagine, and intend to stir up, move, and procure sedition and rebellion within this kingdom of England, and to procure and cause a miserable slaughter among the subjects of our said sovereign lord the king, and wholly to deprive, depose, throw down, and disinherit our said sovereign lord the king from his royal state, title, power, and government of this his kingdom of England, and him our said sovereign lord the king to put to death, and utterly to destroy; and the government of this kingdom of England, and the sincere religion and worship of God in the same kingdom, rightly and by the laws of the same kingdom established, for their will and pleasure to change and alter, and wholly to subvert and destroy the state of the whole kingdom, being in all parts thereof well instituted and ordered, and to levy war against our said sovereign lord the king within this his realm of England: And to fulfil and bring to pass these their most wicked treasons and traitorous designs and purposes aforesaid, they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, and other false traitors unknown, the said 24th day of April, in the said 30th year of the reign of our said lord the king, with force and arms, &c. at the parish of St. Giles in the Fields aforesaid, in the county of Middlesex aforesaid, falsly, maliciously, deceitfully, advisedly, devilishly, and traitorously did assemble, unite, and gather themselves together, and then and there falsly, maliciously, deceitfully, advisedly, devilishly, and traitorously they did consult and agree to put and bring our said sovereign lord the king to death and final destruction, and to alter and change the religion rightly and by the laws of the same kingdom established, to the

superstition of the church of Rome; and the sooner to bring to pass and accomplish the same their most wicked treasons and traitorous imaginations and purposes aforesaid, they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, Thomas Pickering, John Grove, and other false traitors of our said sovereign lord the king unknown, afterwards (to wit) the said 24th day of April, in the said 30th year of the reign of our said sovereign lord the king, at the said parish of St. Giles in the Fields, in the county of Middlesex aforesaid, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously they did consult and agree, that they the said Thomas Pickering and John Grove should kill and murder our said sovereign lord the king: And that they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, and other false traitors unknown, should therefore say, celebrate, and perform a certain number of masses (then and there agreed on among them) for the good of the soul of the said Thomas Pickering, and should therefore pay to the said John Grove a certain sum of money (then and there also agreed on among them): And further, that the said Thomas Pickering and John Grove upon the agreement aforesaid, then and there falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously did undertake, and to the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, and other false traitors of our said sovereign lord the king unknown, then and there falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously they did then and there promise, that they the said Thomas Pickering and John Grove our said sovereign lord the king would kill and murder: And further, that they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, and other false traitors of our said sovereign lord the king unknown, afterwards to wit the said 24th day of April, in the said 30th year of the reign of our said sovereign lord the king, at the said parish of St. Giles in the fields in the county of Middlesex aforesaid, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously, did severally plight their faith every one to other of them, and did then and there swear and promise upon the Sacrament, to conceal and not to divulge their said most wicked treasons, and traitorous compassings, consultations, and purposes aforesaid, so among them had, traitorously to kill and murder our said sovereign lord the king, and to introduce the Roman religion, to be used within this kingdom of England, and to alter and change the true reformed religion, rightly and by the laws of this kingdom of England in this same kingdom of England established; And further, that they the said Thomas Pickering and John Grove, in execution of their said traitorous agreement, afterwards, to wit, the said 24th day of April, in the said 30th year of the reign of our said sovereign lord the king, and divers other days

and times afterwards at the said parish of St. Giles in the fields and in the said county of Middlesex, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously, they did prepare and obtain to themselves, and had and did keep musquets, pistols, swords, daggers, and other offensive and cruel weapons and instruments, to kill and murder our said sovereign lord the king: And that they the said Thomas Pickering and John Grove afterwards, to wit, the said 24th day of April, in the said 30th year of the reign of our said sovereign lord the king, and divers days and times afterwards with force and arms, &c. at the said parish of St. Giles in the Fields in the county of Middlesex aforesaid, and in other places within the said county of Middlesex, falsely, deceitfully, advisedly, maliciously, and traitorously, did lie in wait, and endeavour to kill and murder our said sovereign lord the king; and further, that they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, and other false traitors unknown, afterwards, to wit, the said 24th day of April, in the said 30th year of the reign of our said sovereign lord the king, at the said parish of St. Giles in the Fields, in the county of Middlesex aforesaid, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously, did prepare, persuade, excite, abet, comfort and counsel four other persons unknown, and subjects of our said sovereign lord the king, traitorously to kill and murder our said sovereign lord the king, against the duty of their allegiance, against the peace of our said sovereign lord the king, his crown and dignity, and against the form of the statute in that behalf made and provided.

Upon this Indictment they have been arraigned, and thereunto have severally pleaded, Not Guilty, and for their trial have put themselves upon God and their country, which country you are.

Your charge therefore is to enquire, whether they or any of them be Guilty of the High-Treason whereof they stand indicted, or Not Guilty. If you find them or any of them Guilty, you are to enquire what goods or chattels, lands or tenements, those you find guilty had at the time of the High-Treason committed, or at any time since. If you find them or any of them Not Guilty, you are to enquire whether they did fly for it: If you find that they or any of them fled for it, you are to enquire of their goods and chattels, as if you had found them Guilty. If you find them or any of them Not Guilty, nor that they nor any of them fled for it; say so, and no more, and hear your evidence.

Make Proclamation of Silence on both sides. Which was done.

Then sir Creswell Levinz, one of the king's learned counsel in the law, opened the Indictment thus:

Sir Creswell Levinz. May it please your lordship, and you gentlemen of the jury: These prisoners at the bar, Thomas White alias

Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, do all stand indicted of High-Treason; for that whereas they, as false traitors, meaning and designing to disturb the peace of the kingdom, to levy war within the kingdom, to make miserable slaughter against the king's subjects, to subvert the religion established by the law of the land, to introduce the superstition of the church of Rome, and to bring to death and final destruction, and to murder and assassinate our sovereign lord the king, they did, to effect these things, the 24th of April last assemble themselves together, with many other false traitors yet unknown, in the parish of St. Giles in the Fields in the county of Middlesex, and there, being so assembled, the better to effect these designs did make agreements and conspire together; first, that Pickering and Grove should kill the king, and that White and the rest of the persons that stand indicted, with many other traitors, should say a great number of Masses for the soul of the said Pickering, I think 30,000; and they did further agree there, that Grove should have a great sum of money; and upon this agreement Grove and Pickering did undertake and promise they would do this fact, and did then and there take the Sacrament and an oath to one another upon the Sacrament, that they would conceal these their treasons, that they might the better effect them; and that in pursuance of this, Grove and Pickering did sometimes lie in wait to murder the king, and did provide arms to do it: And the Indictment further sets forth, that White and Ireland, and Fenwick, and many other traitors yet unknown, did procure four other persons yet also unknown, for to kill the king, against the peace of our sovereign lord the king, his crown and dignity, and against the form of the statute. These are the heads of those facts for which they stand indicted. They have all pleaded Not Guilty: If we prove them or any of them Guilty of these or any of these facts, according to the evidence you shall have, we hope you will find it.

Sir Samuel Baldwin, one of his majesty's Serjeants at law, opened the Charge as followeth:

Sir Samuel Baldwin. May it please your lordship, and you gentlemen of the jury, the persons here before you stand indicted of High-Treason; they are five in number, three of them are Jesuits, one is a priest, the fifth is a layman, persons fitly prepared for the work in hand.

Gentlemen, it is not unknown to most persons, nay to every one amongst us that hath the least observed the former times, how that ever since the reformation there hath been a design carried on to subvert the government, and destroy the Protestant religion established here in England; for during all the reign of queen Elizabeth several attempts were made by several Priests and Jesuits, that came from beyond the seas (though the laws were

then severe against them), to destroy the queen and alter the religion established here in England, and so introduce Popery and the superstition of the Church of Rome.

But the conspirators from time to time, during all the queen's reign were disappointed, as Edmond Campion,* and several other Jesuits, who came over in that time, and were executed, and did suffer for their treasons according to law: At length, about the latter end of the queen's time, a Seminary for the English Jesuits was founded at Valladolid in Spain, and you know the employment such persons have.

And soon after the queen's death, in the beginning of the reign of king James several persons came over into England from this very seminary, who together with one Henry Garnet,† Superior of the Jesuits then in England, and divers others English papists, hatched that hellish Gunpowder-Plot; whereby what was designed you all know; but as it fell out, these persons, as well as those in queen Elizabeth's time, were likewise disappointed, and for their execrable treasons in the 3d year of king James were executed at Tyburn and other places.

This is evident by the very act of parliament in 3 Jacobi, in the preamble whereof mention is made that Creswell and Tesmond, Jesuits, came from Valladolid in Spain to execute this Gunpowder-Treason with the popish party here in England.

And, gentlemen, after this treason, so miraculously discovered, was punished, one would not have thought that any future age would have been guilty of the like conspiracy; but it so falls out, that the mystery of Iniquity and Jesuitism still worketh, for there hath of late been a sort of cruel and bloody-minded persons who, in hopes to have better success than they had in former times, during the reigns of queen Elizabeth and king James, have set on foot as horrid a design as that of the Gunpowder-treason; I can resemble it to no other Plot, or design, or treason in any other time, and truly it does resemble that in many particulars: I may say, it doth at the least equal it, if not exceed it.

I shall mention two or three particulars in which this Plot doth resemble that.

1. That horrid design was to take away the life of the then king, to subvert the government, to introduce the popish religion, and to destroy the established Protestant religion in England; and so gentlemen, we think our proofs will make it out that in each of these particulars this design is the same that that was.

2. The great actors in that design were Priests and Jesuits that came from Valladolid in Spain, and other places beyond the seas. And the great actors in this Plot are priests and Jesuits, that are come from St. Omers and other places beyond the seas nearer home than Spain.

3. That plot was chiefly guided and managed

* See vol. 1, p. 1049, of this Collection.

† See vol. 2, p. 218.

by Henry Garnet superior and provincial of the Jesuits then in England; and the great actor in this design is Mr. Whitebread, superior and provincial of the Jesuits now in England; so that I say in these several particulars it does resemble the Gunpowder-Plot.

Gentlemen, In this plot, of which the prisoners now stand indicted, several persons have several parts: Some of these persons are employed to keep correspondence beyond the seas (of which more hath been said in another place, and so I shall not speak of it here): others were to procure and prepare aid and assistance here in England who were to be ready when there should be occasion to use it. But the great part that these persons (the prisoners at the bar) were to act in this conspiracy, was, to take away the life of our sovereign lord the King, on whose preservation the safety and welfare of three nations (and millions of men) doth depend. Now the facts for which the five prisoners stand indicted, I shall open thus:

1. They are here indicted for conspiring the death of his sacred majesty: they did agree to take away the king's life; and entering into such an agreement, they hired some persons amongst them to do it; and this agreement was made the 24th of April last 1678.

2. There is another fact they likewise stand indicted for: 'That they did endeavour and contrive to change and alter the religion established in the nation, and introduce popery in the room of it.' The manner how to effect this was thus, if my information be right; you shall hear that from the evidence. Mr. Whitebread being resident here in England, and Superior of the Jesuits, did in February last think fit (being empowered by authority from Rome) to give summons to the Jesuits abroad, at St. Omers, and other places beyond the seas, that they should come over here into England, to be ready at London, on the 24th of April, the day laid in the Indictment, and which is the day after St. George's day; and their design was (as will appear by the proof) to contrive how they may take away the life of the king: for if that were once done, they thought, in all other things, their design would easily be accomplished. After the Summons were out, they were so officious for the accomplishing of this great end, that between 40 and 50 Jesuits did appear here at London, at the time (for thither they were summoned), and there the meeting was appointed to be. At the White Horse Tavern in the Strand they were to meet first; but being so great a number that they were likely to be taken notice of, if they came all together, it was so ordered, they should come but a few at a time and go off in small numbers and others should succeed them, till the whole number had been there. And there were directions given, and a course taken, that there should be some person to tell them whether they should go from thence. After they had met there at several times in the same day, they were appointed, and adjourned to be at several other places; some of them were ap-

pointed, to be at Mr. Whitebread's lodging, and that was in Wild-Street, at one Mr. Sanders's house; others were appointed to go to Mr. Ireland's lodging, which was in Russel-Street (and this Mr. Ireland was treasurer of the Society): and others were to meet at Mr. Fenwick's chamber in Drury-Lane; and he was at that time Procurator and Agent for that Society. Others were appointed to meet at Harcourt's lodging; and others at other places.

When they came there, they all agreed to the general design of the first meeting, which was To kill the king. Then there was a Paper, or some instrument to be subscribed. This was done, and the Sacrament was taken for the concealment of it. After that, Whitebread, Ireland, Fenwick, and others did agree that Mr. Grove and Mr. Pickering should be employed to assassinate the king. One of them (Mr. Grove) being a lay brother, was to have 1,500*l.* a great sum; the other, as a more suitable reward for his pains, was to have 30,000 masses said for his soul. Mr. Whitebread, Mr. Ireland, and Mr. Fenwick, were all privy to this design; and this was the 24th of April. In August after (they being appointed to kill the king, but it not taking effect, either their hearts misgave them, or they wanted opportunity) there was another meeting at the Savoy, where the witnesses will tell you, four Irish persons were hired for to kill the king. And this was ordered, in case the other design took not effect: There was fourscore pounds sent down to them to Windsor, where they were to have done the fact. After this, other persons were appointed to do the execution, and they were to take the king at his morning walk at New-Market.

These persons were all disappointed in their design. But you shall hear what was the Agreement how it was carried on, and what rewards were given to carry it on. We shall acquaint you likewise, that for the bottom of this design (when so many Jesuits should come over, when they should have so many consultations, and when they should resolve to kill the king) there could be no less than the altering of Religion, and introduction of Popery here in England. And that time, at the first meeting, they had ordered, That Mr. Cary a Jesuit, as their procurator and agent, should go to Rome, to act their concerns there. All which things and more will be made out to you by witnesses produced. There are likewise some other circumstances that will be material to confirm those witnesses. We shall produce to you a Letter written in February last, about that time that Mr. Whitebread sent over his summons for the Jesuits to appear here. This Letter was written by one Mr. Peters, a Jesuit now in custody; and now it is written to one Tunstal, a Jesuit, to give him notice, That he should be in London about the 21st of April, and be ready on the 24th of April: That he knew what the business was; but he did advise him, that he should conceal himself, lest the Plot (by observation) should be discovered. We shall likewise produce several other evi-

dences, to strengthen and confirm the witnesses: we shall first call our witnesses, and enter upon the proof.

Mr. Finch opened the Evidence thus:

Mr. Finch. May it please your lordship, and you gentlemen of the jury; before we call our Witnesses, I would beg leave once more to remind you of what hath already been opened unto you: the quality of the offenders themselves, and the nature of the offence they stand indicted of. For the offenders they are most of them Priests and Jesuits; three of them at the least are so; the other two are the accursed instruments of this design: For the offence, itself, 'tis High Treason.

And though it be High-Treason by the statute of 27 Eliz. for men of that profession to come into England; yet these men are not indicted upon that law, nor for that treason: this I take notice of to you, for the prisoners sake, that they should not fancy to themselves they suffered Martyrdom for their Religion, as some of them have vainly imagined in their case; and for your sakes too, that as at first, it was treason, repeated acts of treason in these men; and those proceeding from a principle of religion too, that justly occasioned the making that law: so here you might observe a pregnant instance of it in the prisoners at the bar. That whenever they had an opportunity, as now they thought they had, they have never failed to put those principles into practice.

So now, Gentlemen, as they are not indicted for being priests, I must desire you to lay that quite of the case, and only consider that they stand here accused for treason; such treason, as were they laymen only, they ought to die for it; though I cannot but observe, they were the sooner traitors for being priests.

The treason therefore they stand indicted of, is of the highest nature: It is a conspiracy to kill the king, and that too with circumstances so aggravating (if any thing can aggravate that offence which is the highest,) that nothing less than the total subversion of the government, and utter destruction of the Protestant Religion would serve their turns. And really, when you consider the root from whence this treason springs you will cease wondering that all this should be attempted and rather wonder that it was not done.

Mischiefs have often miscarried for want of wickedness enough; the horror of conscience or else the malice of the aggressor not being equal to the attempt, has sometimes prevented the execution of it. Here is no room for any thing of this kind: this treason proceeds from a principle of religion, from a sense that it is lawful; nay that they ought to do these things; and every neglect here is looked on as a piece of irreligion, a want of zeal; for which one of the prisoners did penance, as in the course of our evidence we shall prove unto you.

And when we consider, too, that this is carried on, not by the fury of two or three busy men over-zealous in the cause, but by

the deliberate and steady counsels of the whole order, and that too under the obligations of secrecy, as high as Christian Religion can lay on them; you have great reason to wonder that it did not succeed. And yet after all this they have not been able to prevail. Not that we can brag of any human policy that did prevent it: No; all that the wit of man could do, these men had done: but it was the providence of God, it was his revelation: that providence that first enlightened his church, and has preserved it against all opposition heretofore, has once more disappointed their counsels, and preserved the king and this nation in the profession of that true religion these men have vainly attempted to destroy.

Gentlemen, I will not open to you the particulars of our Evidence; that I had rather should come from the witnesses themselves. I shall only in general tell you what will be the course of it. We shall prove unto you, That there was a summons for a consultation to be held by these men the 24th of April last, from the provincial Mr. Whitebread: That they had a caution given them, not to come too soon, nor appear much about town, till the consultation were over, lest occasion should be given to suspect the design: That accordingly a consultation was held, as they say, to send Cary, their procurator, to Rome; though we shall prove to you it was for other purposes: That they adjourned from their general assembly into lesser companies; where several persons did attend them to carry intelligence of their several resolutions: That at these several consults they did resolve the king was to be killed: That Pickering and Grove should do it; for which the one was to have 30,000 masses said for his soul; the other was to have 1,500*l*. That in prosecution of this design, they made several attempts to execute it: That they lay in wait for the king several times in St. James's Park, and other places: And that once in particular it had been done by Pickering, if it had not pleased God to have prevented it by an accident unforeseen: The flint of his pistol being loose, he durst not then attempt it, though he had an opportunity: For which neglect, we shall prove to you, he underwent the penance of 20 or 30 strokes. That when these men had failed, we shall prove to you they hired four ruffians to murder the king at Windsor, and after that at New-market. Thus they waylaid him in all his privacies and retirements, wherever they could think it most convenient to execute their design.

And this we shall prove by two witnesses; who though they should not speak to the same consultations, nor the same times, yet they are still two witnesses in law. For several witnesses of several overt-acts are so many witnesses to the treason: because the treason consists in the intention of the man, in the compassing and imagining the death of the king. The several overt-acts which declare that intention, are but as so many evidences of the treason. We will call our witnesses, and make out what has been opened to you.

Cl. of Cr. Mr. Oates, Lay your hand upon the book. The evidence you shall give for our sovereign lord the king, against Thomas White alias Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, the prisoners at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.

Mr. Serj. Baldwyn. Pray, Mr. Oates, will you declare to the court and the jury, what design there was for the killing of his majesty, and by whom.

Mr. Oates. My lord, in the month of December last, Mr. Thomas Whitebread did receive a patent from the general of the Jesuits at Rome to be provincial of the Order: after he had received this patent, he sent order to one George Conyers, a Jesuit at St. Omers, to preach upon St. Thomas of Canterbury's day; and by virtue of this order, George Conyers did preach against oaths of allegiance and supremacy, and did in his doctrine call them anti-christian and devilish. My lord, in the month of January, this Mr. Whitebread did send several letters to St. Omers; in which letters there was contained intimation of his intent to proceed against the king's person to assassinate him; which letters were written to Richard Ashby. My lord, in the month of February, there comes an order from him as provincial, for several of the Jesuits to make their appearance at London, to be there at a consult to be held the 24th of April O. S.

L. C. J. (sir William Scroggs.) Where was Whitebread then?

Mr. Oates. He was then in London, my lord, as I suppose by the dating of his letters. My lord, from Mr. Whitebread after this summons, we received a second summons, which came the 5th of April, N. S., and upon the summons there were nine did appear at London, the Rector of Liege, sir Thomas Preston, the Rector of Ghent, whose name is Marsh, the Rector of Wotton, whose name is Williams, and one sir John Warner, and two or three more from St. Omers; and there was a special order given us, my lord, to keep ourselves close, lest we should be suspected, and so our design disclosed. My lord, upon the 24th of April, O. S. we did appear in the consult. The consult was begun at the White-horse tavern in the Strand*, and there

they met in several rooms; they came in by degrees; and as the new ones came on, the old ones, those that had been there before them, fell off. And there was one John Cary appointed to go procurator for Rome, and he was so appointed by the suffrages of the three prisoners at the bar, Whitebread, Ireland, and Fenwick. It was afterwards adjourned into several colloquies, or little meetings; one meeting was at Mrs. Sanders's house, that huts upon Wild-house; a second was at Mr. Ireland's; a third was at Mr. Harcourt's; a fourth was at Mr. Grove's; and other meeting or meetings there were, but I cannot give a good account of them. My lord, after they had thus met, and debated the state of religion, and the life of the king, they drew up this resolve; it was drawn up by one Mico, who was secretary to the society, and Socius, or companion to the provincial.

L. J. C. When was that done?

Mr. Oates. That day, my lord. The Resolve, my lord, was this, as near as I can remember the words: It is resolved, That Thomas Pickering and John Grove shall go on in their attempt to assassinate the king (whether they used the word assassinate, I cannot remember, but the meaning was, they should make an attempt upon his person), and that the reward of the one, that is Grove's, should be 1,500*l.*, and that Pickering's reward should be 30,000 masses. My lord, after this resolution was signed by Whitebread, it was signed by Fenwick and Ireland; and by all the four clubs: I saw them sign it, for I carried the instrument from one to another.

L. C. J. What was it they signed?

Oates. The resolve of the consult.

L. C. J. What, that which was drawn up by Mico?

Oates. Yes, my Lord, that which was drawn up by Mico.

Whitebread. Doth he say that he saw them sign it?—Oates. Yes, I did see them sign it.

Jury. We desire he may be asked where he saw them sign it.

Oates. Mr. Whitebread signed it at that part of the consult that was at his chamber, Ireland did sign it at that part of the consult that was at his chamber, Fenwick signed it at that part of the consult that was at his chamber.

* This was the perjury assigned in the Indictment on which, upon May 6th, 1685, Oates was convicted of perjury. See the Trial, *infra*. "I waited on the king [James 2d] in his barge from Whitehall to Somerset-house, where he went to visit the Queen Dowager. It was upon this day that the noted Dr. Oates was convicted of Perjury; it being proved that he was at St. Omers the 24th of April, 1678; when he swore he was at the White-horse tavern in the Strand, where Pickering, Grove, Ireland, and other Jesuits signed the death of king Charles the Second. This was a grateful hearing to the king, who thereupon observed, that indeed

there had been a meeting of the Jesuits that day, and that all the scholars of St. Omers knew of it; but that it was well Dr. Oates knew no better where it was to be, for, says his majesty, they met in St. James's, where I then lived; which if Oates had but known, he would have cut out a fine spot of work for me. The king then subjoined, that Oates being thus convicted, the Popish Plot was now dead: to which I answering, that it had been long since dead, and that now it would be buried, his majesty so well approved of the turn, that going with him afterwards, to the Princess of Denmark's, I heard him repeat it to her." Sir John Reresby's Memoirs, p. 194.

Whitebread. Were you at all these places?

Oates. I went with it from place to place; but I mention no more now, but only these.

Whitebread. You were not at all these places, and saw them sign it there, were you?

Oates. Yes, I did see them sign it at all those places. My Lord, in the month of May, Mr. Whitebread came over as provincial from England to St. Omers, to begin his provincial visitation, and with him came Cary and his companion Mico. Cary left St. Omers to begin his journey to Rome: Whitebread, after he had given an account of what proceedings the catholics of England had made in order to disturb the peace of the kingdom, what moneys had been gathered, what suffrages dispersed, what means had been used, what noblemen had joined in this execrable plot; he did then (my Lord) order me to come for England.

L. C. J. Whitebread did?

Oates. Yes, my Lord, Whitebread did. And, my Lord, the business I was to come into England for, was to murder one Dr. Tongue, a Doctor in Divinity, who had written a Book called "The Jesuits Morals;" that is to say, translated them out of French into English. My lord, I came over into England on the 23rd of June, N. S.; I came out of St. Omers, that is, the 13th in the stile of England; on the 24th N. S., I took the packet-boat at Calais; the 25th N. S., I met with Mr. Fenwick at Dover; he was come down with certain youths, to send them to St. Omers, and had ordered their passage.—My lord, with Mr. Fenwick, and some other persons, we came to London in a coach; and six miles (as near as I remember it) on this side Canterbury, at a place called Bolton, our coach was stopped by the searchers, and there they did examine a box that was in the coach directed for the hon. Richard Blundell, esq. This box, when they opened it, they found full of beads, crucifixes, images, and other sorts of trumpery, that I cannot give a good account of; it is he can give the best: Mr. Fenwick went by the name of one Thompson, and did personate one Thompson, as living near the Fountain-Tavern, at Charing-Cross; and did order the searchers to write to him there, as by the name of Thompson. When the box was seized, they being prohibited goods, Mr. Fenwick did say, that if they had searched his pockets, they had found such letters about him as might have cost him his life; but his letters did escape searching. We came that night to Sittinburgh, and lay there on Sunday the 26th, N. S., as near as I remember: and I think we stayed there till the afternoon: We took coach in the afternoon, and came as far as Dartford. On Monday morning we came into London; and (my lord) when we came into London, and had continued there some days (I now return to Mr. Whitebread), there came one Ashby to town; he had been some time rector of St. Omers, and was come to England sick of the gout, and was to go to the Bath to be cured. And he brought instructions with him from Whitebread; and the instructions

contained in them these particulars: Instructions or Memorials, or what else they called them. 1. That 10,000*l.* should be proposed to sir George Wakeman for the killing of the king. 2. That care should be taken for the murder of the bishop of Hereford. 3. That care should be taken for the murder of Dr. Stillingfleet. 4. That though this proposal was made to sir George Wakeman of 10,000*l.*, yet Pickering and Grove should go on still in their attempts. My lord, afterwards these were taken and copied out, and dispersed to the several conspirators in the kingdom, whose names I cannot call to mind. But Coleman made several copies, and dispersed them about: Then the 10,000*l.* was proposed to sir George Wakeman, but it was refused.

L. C. J. What, it was too little?

Oates. Yes, my lord, it was too little. Then Whitebread he writ from St. Omers, that in case 10,000*l.* would not do, fifteen should be proposed, and after that he had that proposed, he accepted of that.

L. C. J. Were you by when he accepted it?

Oates. No, my lord, I was not: But it appeared upon their entry-books, and it appeared by a letter from this gentleman, Mr. Whitebread, wherein he did shew a great deal of joy for sir George Wakeman's accepting of the 15,000*l.* My lord, after this it was agreed upon, that sir George Wakeman should have 15,000*l.*, and 5,000*l.* of it was paid by Coleman or his order. Thus the state of affairs stood till August. Then one Fogarthy, who is dead, came to a consult of the Jesuits with the Benedictines: Now at this consult the prisoner at the bar Fenwick was, he was one, and Harcourt was another. And in this consult there were four ruffians recommended to them.

L. C. J. By whom?

Oates. By Fogarthy they were recommended, but accepted of by these consultors, and consented to by Fenwick. They were sent away, and the next day after fourscore pounds was sent them, the most part of it was gold, and Coleman was there and gave the messenger a guinea to expedite his errand. My lord, in the month of August there came other letters from Whitebread, wherein he did give an account of what care he had taken of the Scotch business; and he ordered one Moor and one Sanders, alias Brown, to go down to Scotland; and he did order the rector of London, then William Harcourt, to send them; and he did so send them the 6th of August, in the name of the provincial.

Whitebread. From whence, I pray?

Oates. From London, and they went to prosecute and carry on the design which Fenwick and Ireland had plotted, of a rebellion amongst the disaffected Scots against the governors appointed them by the king; and they sent down ministers to preach under the notion of Presbyterian ministers, in order to get the disaffected Scots to rise, by insinuating the sad condition they were likely to be in, by reason of episcopal tyranny (as they termed it.) And that

they were resolved to dispose of the king, and they did intend to dispose of the Duke too, in case he did not appear vigorous in promoting the catholic religion (I speak their own words.)

L. C. J. Have you done with your evidence? What do you know of the prisoners at the bar? Name them all.

Oates. There is Whitebread, Ireland, Fenwick, Pickering, and Grove.

L. C. J. Are you sure Pickering and Grove accepted of the terms?

Oates. Yes, my lord, I was there.

L. C. J. Where was it?

Oates. At Mr. Whitebread's lodgings at Mrs. Saunders's house. As for Grove, indeed, he did attend at that time upon Fenwick at his chamber; but after the consult was over he came to Whitebread's lodgings, and did take the sacrament and the oaths of secrecy upon it, and did accept it, and agree to it.

L. C. J. Were you there when he took the sacrament?

Oates. Yes, my lord, I was.

L. C. J. Who gave you the sacrament?

Oates. It was a Jesuit, that goes by the name of one Barton.

Whitebread. My lord before I forget it, I desire to say this. He says that at such and such consults in April and May he was present, and carried the resolutions from one to another. There are above a hundred and a hundred, that can testify he was all that while at St. Omers. Pray tell me when I received the sacrament?

Oates. At the same time.

Whitebread. What day was that?

Oates. The 24th of April.

Whitebread. Was I there?

Oates. You were there.

Whitebread. I take God to witness I was not.

L. C. J. Mr. Whitebread, you shall have time to make your answer. But, pray Mr. Oates, when was Mr. Carey dispatched away to Rome, and what was his errand?

Oates. My lord, I'll tell you; he was approved of to go to Rome the 24th of April; in the month of May or June, Whitebread brings Cary over to St. Omers, and one Mico his secretary or companion with him.

L. C. J. When was it?

Oates. In the month of May or June he was brought over by the provincial; then he went away on his journey, and at Paris received 20*l.* to bear his charges.

Finch. What do you know of any attempts to kill the king at St. James's Park?

Oates. I saw Pickering and Grove several times walking in the Park together with their screwed pistols, which were longer than ordinary pistols, and shorter than some carlines. They had silver bullets to shoot with, and Grove would have had the bullets to be champ, for fear that if he should shoot, if the bullets were round, the wound that might be given might be cured.

L. C. J. Did Grove intend to champ them?

Oates. He did say so.

L. C. J. Did he shew you the bullets?

Oates. I did see them:

Grove. When was this?

Oates. I saw the bullets in the month of May, and in the month of June.

Whitebread. Pray, where did you see them?

Oates. In Grove's possession.

Whitebread. At what time?

Oates. In the month of May.

Whitebread. Then was he actually himself at St. Omers. Was it in May or June?

Oates. The latter end of May and June. I saw them then twice, if not thrice. But Pickering's I saw in August.

Sir Cr. Levinz. Do you know any thing of Pickering's doing penance, and for what?

Oates. Yes, my lord, in the month of March last (for these persons have followed the king several years); but he at that time had not looked to the flint of his pistol, but it was loose, and he durst not venture to give fire. He had a fair opportunity, as Whitebread said; and because he mist it through his own negligence, he underwent penance, and had 20 or 30 strokes of discipline, and Grove was chidden for his carelessness.

L. C. J. That was in March last?

Oates. Yes, my lord.

L. C. J. How do you know that?

Oates. By letters that I have seen from Mr. Whitebread; these I saw and read, and I know Whitebread's hand.

Mr. Serj. Baldwyn. What do you know of the ruffians that went down to Windsor? What success had they?

Oates. I can give no account of that, because in the beginning of September this gentleman that had been in England some time before, was come to London and the business had taken air, and one Beddingfield had written to him, that the thing was discovered, and that none but such a one could do it, naming me by a name that he knew I went by.

Whitebread. When was that, sir?

Oates. In the month of September last, I came to the provincial's chamber the 3rd of September; when I came I could not speak with him, for he was at supper; but when he had supped I was admitted in, and there he shewed me the letter that he had received from Beddingfield.

Whitebread. Where did you see it?

Oates. You read it to me when you chide me, and beat me, and abused me.

L. C. J. What did he chide you for?

Oates. He did charge me with very high language of being with the king, and with a minister, and discovering the matter. I was so unfortunate, that the gentleman who was with the king did wear the same coloured clothes that I did then wear: And he having given an account that the party wore such clothes, the suspicion was laid upon me: Now, my lord, I had not then been with the king, but another gentleman had been with him from me with the draughts of some papers concerning this business, which I had drawn up, and I was ready to appear when I should be called to

justify them, only I did not think fit to appear immediately: And my lord, this Beddingfield, he had gotten into it that it was discovered, and writ the provincial word he thought it was by me; 'for,' said he, 'he hath been drawn in by some of his old acquaintance:' When he had received this letter, he asked me with what face I could look upon him, since I had betrayed them: So, my lord, I did profess a great deal of innocency, because I had not then been with the king; but he gave me very ill language and abused me, and I was afraid of a worse mischief from them; for I could not but conclude, that if they dealt so cruelly with those that only writ against them, I could scarce escape, of whom they had that jealousy, that I had betrayed them: And, my lord, though they could not prove that I had discovered it, yet upon the bare suspicion I was beaten, and affronted, and reviled, and commanded to go beyond sea again; nay, my lord, I had my lodging assaulted, to have murdered me if they could.

Whitebread. By whom?

Oates. By Mr. Whitebread, and some of them.

Whitebread. Who beat you?

Oates. Mr. Whitebread did.

Mr. Serj. Baldwyn. Was it Pickering or Grove that had the flint of his pistol loose?

Oates. Pickering.

Pickering. My lord, I never shot off a pistol in all my life.

L. C. J. What say you as to the fourscore pounds?

Oates. My lord, I will speak to that; that was given to the four ruffians that were to kill the king at Windsor: now, my lord, that money I saw——

L. C. J. Where did you see it?

Oates. At Harcourt's chamber.

L. C. J. Where is that?

Oates. In Duke Street, near the arch.

L. C. J. Who was it given by?

Oates. William Harcourt.

L. C. J. Did you see the four fellows?

Oates. No, my lord, I never did, nor never knew their names.

L. C. J. Who was the money given to?

Oates. A messenger that was to carry it down to them.

L. C. J. Who was that messenger?

Oates. One of theirs that I do not know; and I durst not be too inquisitive, my lord, for fear of being suspected.

L. C. J. Who was by when the money was paid?

Oates. Coleman; that is executed; and, my lord, there was this Mr. Fenwick by, that is the prisoner at the bar.

Fenwick. When was this?

Oates. In the month of August.

Fenwick. Where?

Oates. At Harcourt's chamber.

Fenwick. I never saw you there in all my life: are you sure I was by when the money was there?

Oates. Yes, you were.

VOL. VII.

L. C. J. Mr. Fenwick, you shall have your time by and by to ask him any question: Mr. Oates, let me ask you once again, When there was the appointment made for Grove and Pickering to kill the king, who signed it?

Oates. At least forty signed it.

L. C. J. Did the other three sign it?

Oates. Yes, my lord, all of them.

L. C. J. Name them.

Oates. There was Whitebread, Fenwick, and Ireland.

L. C. J. And you say you went from place to place, and saw it signed?

Oates. Yes, my lord, I did.

L. C. J. Were you attendant upon them?

Oates. My lord, I ever was since the year 1666.

L. C. J. At whose lodgings did you use to attend upon the consultation?

Oates. At the Provincial's chamber, Mr. Whitebread.

L. C. J. Where was it first signed?

Oates. At the Provincial's chamber.

Sir Cr. Levinz. Who carried it from lodging to lodging?

Oates. I did.

L. C. J. When was it?

Oates. The 24th of April.

Mr. Just. Bertuc. You say you carried the result from place to place, pray tell us what that result was?

Oates. They knew what it was, for they read it before they signed it.

Mr. Just. Atkins. But tell us the contents of it.

Oates. The contents of that resolve was this (I will tell you the substance, though I cannot tell you exactly the words): That Pickering and Grove should go on in their attempts to assassinate the person of the king; as near as I can remember it was so; that the former should have 30,000 masses and the latter 1,500l.; and the whole consult did consent to it, and signed the agreement that was made with them, and did resolve upon the king's death all in one resolve.

L. C. J. Where was this agreed upon? at the White-Horse tavern?

Oates. No, my lord. After they had agreed at the White-Horse, that Mr. Cary should go procurator to Rome, and some other small particulars, which I cannot now remember, they did adjourn from the White-Horse tavern, and met at several chambers, some at one place, and some at another.

L. C. J. But you say Mico did draw up the resolution, where was that?

Oates. At Mr. Whitebread's chamber, for he was Socius, and secretary to the Provincial.

L. C. J. Were Ireland and Fenwick present when Mico drew it up?

Oates. No, my lord, but they were at their own chambers; after it was drawn up there, and signed by Mr. Whitebread, and those of the consult in his chamber, it was carried to the several consults.

L. C. J. What, all the same day?

H

Oates. Yes, my lord.

L. C. J. And you went along with it?

Oates. Yes, my lord, I did.

Mr. Just. Bertue. I only ask you, were all the five prisoners privy to it? or do you distinguish any of them, and which?

Oates. They were all privy to it.

Whit. My lord, we can prove—

L. C. J. You shall have time sufficient to make what defence you can, you shall be sure to have a fair trial, and be stopt of nothing that you will think fit to say for yourselves. *Mr. Oates,* were *Pickering* and *Grove* present?

Oates. Yes, my lord, *Grove* at *Fenwick's* chamber, and *Pickering* at the *Provincial's* chamber.

L. C. J. But they were not required to sign this, were they?

Oates. After that the whole consult had signed it, and *Mass* was preparing to be said for it, before *Mass*, they did sign and accept of it.

L. C. J. Where did they two do it?

Oates. At the *Provincial's* chamber.

L. C. J. What day was it?

Oates. That day, for they met all together at the *Provincial's* chamber to receive the *Sacrament*, and when *Mass* was going to be said, one said it was too late, for it was after twelve o'clock; but *Mr. Whitebread* said it was not afternoon till we had dined; and you know, *Mr. Whitebread*, that *Masses* have been said at one or two o'clock in the afternoon.

Mr. Just. Atkins. How many persons did meet at that consult?

Oates. My lord, there were about forty or fifty, and after they had adjourned into several lesser companies, they met all together at *Mr. Whitebread's* chamber.

L. C. J. Where was that, and when?

Oates. That day, at *Wild-House*.

L. C. J. Where was it that they gave the *Sacrament*?

Oates. At a little chapel at *Wild-House*, *Mrs. Sanders's*.

L. C. J. Did they accept it before they took the *Sacrament*?

Oates. Yes, *Pickering* and *Grove* did sign it before they took the *Sacrament*.

Mr. Justice Atkins. You tell us of an Oath of Secrecy that was taken, what was that Oath?

Oates. I cannot give an account of the form of the Oath, but it was an obligation of secrecy.

Mr. Justice Atkins. Did you see the Oath administered?—*Oates.* Yes, my lord, I did.

L. C. J. Who administered it?

Oates. *Mr. Whitebread*, he did give it unto me and to all the rest that were there, and *Mico* held the book; it was a mass-book, but they were words of his own invention, I believe, they were not written down.

L. C. J. Cannot you tell what they were?

Mr. Oates. No, my lord, I cannot tell, because I did not see them written down.

L. C. J. If you will ask this gentleman any thing more, you may.

Whitebread. My lord, I am in a very weak and doubtful condition as to my health, and therefore I should be very loth to speak any thing but what is true: we are to prove a negative, and I know it is much harder to prove a negative, than to assert an affirmative; it is not a very hard thing for a man to swear any thing, if he will venture his soul for it; but truly, I may boldly say, in the sight of Almighty God before whom I am to appear, there have not been three true words spoken by this witness.

L. C. J. Do you hear, if you could but satisfy us, that you have no dispensation to call God to witness a lie—

Whitebread. My lord, I do affirm it with all the protestations imaginable.

L. C. J. But if you have a religion that can give a dispensation for oaths, sacraments, protestations and falsehoods that are in the world, how can you expect we should believe you?

Whitebread. I know no such thing.

L. C. J. We shall see that presently, before we have done.

Oates. I have one thing more to say, my lord, that comes into my mind. This *Whitebread* received power from the see of *Rome* to grant out commissions to officers military. And, my lord, here are the seals of the office in court, which he hath sealed some hundreds of commissions with, which they call patents.

L. C. J. What were those commissions for? For an army?

Oates. Yes, my lord, for an army.

Whitebread. When were those commissions signed?

Oates. My lord, several of them were signed in the former provincial's time.

L. C. J. What, I warrant you, you are not provincial of the *Jesuits*, are you?

Whitebread. I cannot deny that, my lord.

L. C. J. Then there are more than three words he hath spoken are true.

Mr. Justice Atkins. I believe, *Mr. Oates*, that that army was intended for something, pray what was it for?

Oates. My lord, they were to rise upon the death of the king, and let the French king in upon us, and they had made it their business to prepare *Ireland* and *Scotland* for the receiving of a foreign invasion.

L. C. J. Who were those commissions sealed by?

Oates. My lord, the commissions of the great officers were sealed with the general's seal.

L. C. J. Who was that?

Oates. His name is *Johannes Paulus de Oliva*: His seal sealed the commissions for the generals, major-generals and great persons; but those seals that sealed the several commissions to several inferior officers, were in the custody of the provincial.

L. C. J. Can you name any one person that he hath sealed a commission to?

Oates. I can name one: To sir *John Gage*, which commission I delivered myself.

L. C. J. What, of Sussex?

Oates. Yes, of Sussex.

Mr. Justice Atkins. Who did you receive the commission from?

Oates. My lord, when he went over, he left a great many blank patents to be filled up, and he left one ready sealed for a commission to sir John Gage. This was delivered into my hands when he was absent, but it was signed by him, and delivered to me while he was in his visitation beyond the seas, but I dare swear it was his hand, as I shall answer it before God and the king.

Mr. Justice Atkins. Who had it you from?

Oates. From Mr. Ashby, but by Whitebread's appointment in his instructions, which I saw and read.

L. C. J. What was the commission for?

Oates. To be an officer in the army.

L. C. J. Did you see the instructions left for Ashby?

Oates. I did see them, and read them, and I did then, as I always did, give it as my judgment, that it was more safe to poison the king, than to pistol or stab him.

Mr. Justice Bertue. Was the commission which you delivered to sir John Gage, from Ashby or from Whitebread?

Oates. I had it from Ashby, but Whitebread, who was then beyond sea, had signed this commission before he went. My lord, I have something more yet to say, and that is as to Mr. Grove, That he did go about with one Smith to gather Peter-pence, which was either to carry on the design, or to send them to Rome. I saw the book wherein it was entered, and I heard him say that he had been gathering of it.

Grove. Where was this?

Oates. In Cockpit-alley, where you know I lodged.

Grove. Did I ever see you at your lodging?

Oates. You saw me at my own door.

L. C. J. Why, don't you know Mr. Oates?

Grove. My lord, I have seen him before.

L. C. J. Why this it is, ask a Papist a question, and you shall have a Jesuitical answer.

Oates. I will convince the Court that he does know me by some circumstances. My lord, in the month of Dec. last, by the provincial's order—

L. C. J. I would ask him first, whether he does know you or no. Do you know Mr. Oates?

Grove. I have seen him before.

L. C. J. Have you been often in his company?

Grove. No, my lord.

L. C. J. What do you call often? Have you been in his company seven or eight times? (for we must deal subtilly with such as you are) Have you been in his company ten times?

Grove. No.

L. C. J. What say you to three times?

Grove. Yes, I believe I have seen him twice or thrice.

L. C. J. Where? did you never see him at Whitebread's?

Grove. As I hope to be saved, and before the eternal God, I did never.

Oates. I will convince him and the court, that he does know me, and is well acquainted with me: In the month of December last I went to St. Omers, I went first to the then provincial's house, to take my leave of him, and there I met Mr. Grove, and he appointed to come to my lodging the next morning, near the Red Lion in Drury lane, at one Grigson's house, and he was so well acquainted with me then, that he had lent me eight shillings, to hire the coach.

L. C. J. Did you lend him eight shillings?

Grove. I did, my lord, I do not deny it.

L. C. J. How came you to do it, when it seems, if you say true, he was a stranger to you?

Grove. I thought I should have it again.

L. C. J. What, of him?

Grove. Yes.

L. C. J. Did he desire you to lend him the eight shillings?

Grove. Yes, he did, my lord.

Oates. Then there is one time that he confesses he saw me.

L. C. J. Did you not know him before?

Grove. I had no acquaintance with him, I had seen him.

L. C. J. How came you then to lend money to one you had no more acquaintance with?

Grove. I knew I should go along with him to the coach, then I thought I should have it again.

L. C. J. Mr. Oates, were you going beyond sea then?

Oates. Yes, my lord, I was.

L. C. J. Mr. Oates, did you pay him that money?

Oates. No, my lord, I did not.

L. C. J. Did you ask him for the money, and had you it?

Grove. He did not pay it me.

L. C. J. How then were you sure you should have it?

Grove. He did order me to go to such-a-one for it.

L. C. J. Who was that?

Grove. Mr. Fenwick, I think.

L. C. J. Then Mr. Oates was known to you all, he was no such stranger to you as you would make us believe.

Oates. Thus he confesses three times he had seen me, once before he lent me the money, another time when he lent it, and the third time the next day. And I will put him in mind of another time, when he and I were in company, where one brought us a note of what was done in the House of Commons, turned into burlesque, for they used to turn all that was done at the council, or at the parliament, or at the courts in Westminster-hall, into burlesque, and then translated it into the French, and sent it to the French king, for him to laugh at too. But that by the way. Twice

more he drank in my company, at the Red Posts in Wild-street, and once more when he owned to me, that he fired Southwark.

L. C. J. Now by the oath that you have taken, did he own to you that he had fired Southwark?

Oates. My lord, he did tell me that he with three Irishmen did fire Southwark, and that they had 1,000*l.* given them for it, whercof he had 400*l.* and the other 200*l.* a piece.

L. C. J. Now for Mr. Fenwick. Do you know Mr. Oates?

Fenwick. Yes, my lord, I do.

L. C. J. Were you well acquainted with him? speak plain.

Oates. He was my father-confessor, my lord.

L. C. J. Was he so? were you his confessor?

Fenwick. I believe he never made any confession in his life.

L. C. J. Yes, he hath made a very good one now. Were you of his acquaintance, Mr. Fenwick? speak home, and don't mince the matter.

Fenwick. My lord, I have seen him.

L. C. J. I wonder what you are made of: Ask a Protestant, an English one, a plain question, and he will scorn to come dallying with an evasive answer.

Fenw. My Lord, I have been several times in his company.

L. C. J. Did you pay 8*s.* for him?

Fenw. Yes, I believe I did.

L. C. J. How came you to do it?

Fenw. He was going to St. Omers.

L. C. J. Why, were you Treasurer for the Society?

Fenw. No, my Lord, I was not.

L. C. J. You never had your 8*s.* again, had you?

Fenw. It is upon my book, my Lord, if I ever had it.

L. C. J. Did Mr. Oates ever pay it again?

Fenw. No, sure, he was never so honest.

L. C. J. Who had you it of then?

Fenw. I am certain I had it not from him; he did not pay it.

L. C. J. How can you tell you had it then?

Fenw. I do suppose I had it again, but not of Mr. Oates.

L. C. J. Had you it of Ireland?

Fenw. I do not know who I had it of, my lord, nor certainly whether I had it.

L. C. J. Why did you not ask Mr. Oates for it?

Fenw. He was not able to pay it.

L. C. J. Why did you then lay it down for him?

Fenw. Because I was a fool.

L. C. J. That must be the conclusion always: when you cannot evade being proved knaves by answering directly, you will rather suffer yourselves to be called fools.

Fenw. My Lord, I have done more for him than that comes to; for he came once to me in a miserable poor condition, and said, I must

turn again, and betake myself to the ministry to get bread, for I have eaten nothing these two days: and I then gave him five shillings to relieve his present necessity.

Oates. My Lord, I will answer to that; I was never in any such straits, I was ordered by the provincial to be taken care of by the Procurator.

Fenw. You brought no such order to me.

Oates. Yes, Mr. Fenwick, you know there was such an order, and I never received so little in my life as five shillings from you: I have received 20 and 30 and 40*s.* at a time, but never so little as five.

L. C. J. You are more charitable than you thought for.

Fenw. He told me he had not eaten a bit in two days.

Oates. I have indeed gone a whole day without eating, when I have been hurried about your trash; but I assure you, my lord, I never wanted for any thing among them.

L. C. J. Perhaps it was fasting-day.

L. C. Baron. My Lord, their fasting-days are none of the worst.

Oates. No, we commonly eat best of those days.

L. C. J. Have you any thing to ask him, any of you?

Whitebread. My Lord, will you be pleased to give me leave to speak for myself.

Just. Atkins. It is not your time yet to make your full defence, but if you will ask him any questions, you may.

Whitebread. I crave your mercy my Lord.

L. C. J. Will you ask him any questions?

Fenw. Did not you say that you were at my chamber the 21th of April, with the resolve of the consult?

Oates. That resolve I did then carry to your chamber.

Fenw. Then was he himself at St. Omers.

L. C. J. The difference of old stile, and new stile may perhaps make some alteration in that circumstance.

Whitebread. But, my Lord, he hath sworn he was present at several consultations in April and May, but from November till June he was constantly at St. Omers.

L. C. J. If you can make it out that he was at St. Omers all April and May, then what he hath said cannot be true.

Ireland. He himself hath confessed it that he was at St. Omers.

L. C. J. If you mean by confession, what stands upon the evidence he hath given, I will remember you what that was. He says he came to St. Omers—

Oates. Will your lordship give me leave to satisfy the court: in the month of December, or November, I went to St. Omers: I remained there all January, February, March, and some part of April: then I came over with the Fathers to the consult that was appointed the 24th of that month.

Fenw. Did you go back again? *Oates.* Yes.

Fenw. When was that?

Oates. In the month of May, presently after the consults were over.

Fenw. And we can prove by abundance of witnesses that he went not from St. Omers all that month.

L. C. J. You shall have what time you will to prove what you can; and if you can prove what you say, you were best fix it upon him; for he saith he was here at the consults in April and May; if you can prove otherwise, pray do.

Fenw. We can bring an authentic writing (if there be any such) from St. Omers, under the seal of the college, and testified by all in the college, that he was there all the while.

L. C. J. Mr. Fenwick, that will not do; for first, if it were in any other case besides this, it would be no evidence; but I know not what you cannot get from St. Omers, or what you will not call authentic.

Fenw. Does your lordship think there is no justice out of England?

L. C. J. It is not, nor cannot be evidence here.

Fenw. It shall be signed by the magistrates of the town.

L. C. J. What, there?

Fenw. Yes, there.

L. C. J. You must be tried by the laws of England, which sends no piece of fact out of the country to be tried.

Fenw. But the evidence of it may be brought hither.

L. C. J. Then you should have brought it. You shall have a fair trial; but we must not depart from the law or the way of trial, to serve your purposes. You must be tried according to the law of the land.

Just. Atkins. Such evidences as you speak of we would not allow against you; and therefore we must not allow it for you.

Whit. May this gentleman be put to this; to produce any two witnesses that saw him in town at that time?

Oates. I will give some circumstances and what tokens I have to prove my being here: Father Warner, sir Tho. Preston, Father Williams, and sir John Warner, they came hither with me from St. Omers; there was one Nevil, &c. I cannot reckon them all.

L. C. J. You have named enough.

Oates. But to convince them, there was a lad in the house that was got to the end of his Rhetorick; this lad was whipt and turned out of the house, and had lost all his money: Father Williams did re-imburse this lad in order to his bringing home, I think the lad's name was Hilsley, or some such name. And we came up to London together.

L. C. J. What say you to this circumstance?

Whit. My Lord, he knew that two such came to town, but he was not with them.

L. C. J. You are now very good at a negative, I see; how can you tell that?

Whit. My Lord, he could not come.

L. C. J. How can you tell he could not come?

Whit. I can tell it very well, for he had no order to come, nor did come.

L. C. J. How can you undertake to say that he did not come?

Whit. Because he had no order to come.

L. C. J. Is that all your reason? Where were you then?—*Whit.* I was here.

L. C. J. How do you know he was not here?

Whit. He had no orders to come.

L. C. J. Have you any other circumstance, Mr. Oates, to prove that you were here then?

Oates. My lord, when I came to London, I was ordered to keep very close, and I lay at Grove's house; let him deny it if he can, I will tell you who lay there then—

Grove. Did you ever lie at my house?

Oates. There lay a flaxen-haired gentleman, I forgot his name: but I will tell you who lay there besides; that is Strange, that was the late provincial.

L. C. J. Did Strange ever lie at your house?

Grove. Yes, my lord, he did.

L. C. J. Did he lie there in April or May?

Grove. No, he did not in either of them.

L. C. J. You will make that appear.

Grove. Yes, that I can by all the house.

L. C. J. Have you any more questions to ask him? If you have, do: If you can prove this upon him, that he was absent, and not in England in April or May, you have made a great defence for yourselves, and it shall be remembered for your advantage when it comes to your turn: in the mean time, if you have no more to say to him, call another witness. Let Mr. Oates sit down again, and have some refreshment.

Mr. Serj. Baldwin. We will now call Mr. Bedlow, my lord.

Then Mr. Bedlow was sworn.

Mr. Serj. Baldwin. Mr. Bedlow, pray do you tell my lord and the jury what you know of any design of killing the king and by whom.

Bedlow. My Lord, I have been five years almost employed by the society of Jesuits and the English monks in Paris to carry and bring letters between them from England and to England for the promoting of a design tending to the subversion of the government, and the extirpating of the Protestant Religion, to that degree (which was always concluded on in all their consults wherein I was) that they would not leave any member of any Heretic in England, that should survive to tell in the kingdom hereafter that there ever was any such religion in England as the Protestant Religion—

Here Whitebread would have interrupted him.

My lord, I am so well satisfied in their denials, that I cannot but believe they who can give a dispensation, and have received the sacrament to kill a king and destroy a whole kingdom, do not scruple to give a dispensation for a little lye to promote such a design, for so much as this expiates any lie or greater crime.

Sir Cr. Levinz. Pray, sir, will you be pleased to tell your whole knowledge concerning the prisoners at the bar.

Bedlow. The first letter I carried was from Mr. Harcourt, at his house next door to the arch in Duke-street. He hath been Procurator for the Jesuits about six years. He employed me first, and sent for me over, for I was then lieutenant in Flanders, and coming home to receive my pay that was due to me——

L. C. J. How long is it ago?

Bedlow. Michaelmas last was four years; when I came to Dunkirk I went to visit the English nunnery there, and the lady Abbess finding me very pliable and inclinable, made very much of me, and I did adhere to her. She kept me six weeks in the convent, and afterwards when I went away, recommended me to sir John Warner, as an instrument fit to be employed in the carrying of letters, or doing any thing that would promote the design against England. He kept me at St. Omers a fortnight and after sent me to Father Harcourt to be instructed in my employment. It was then winter; the next spring he sends me into England with divers letters, where by Mr. Harcourt I was employed to carry several letters to Morton and Doway, and other places: that summer I was sent into England without an answer: but afterwards, in 1676, which was the next summer, I was to carry another packet of letters to the monks at Paris, who sent it to other English Monks in France——

L. C. J. Who sent that packet of letters in 1676?

Bedlow. I had it from Mr. Harcourt, and it was written by Harcourt, Pritchard and Cary.

L. C. J. To whom?

Bedlow. To the English Monks in France, and in it there was a letter to La Chaise. Upon the receipt of these letters at Paris La Chaise had a consultation with the Monks and a French bishop or two about them; I did not then speak French enough to understand what it was they said, but it was interpreted to me by Mr. Stapleton an English Monk, who told me that it was a letter from my lord Bellasis and others of the Catholic religion, English gentlemen that were contrivers of the plot here, to satisfy them in what state things stood in England as to popery. I was sent back again with a packet of letters directed to Mr. Vaughan of Courtfield in Monmouthshire.

L. C. J. From whom was that?

Bedlow. From the English Monks at Paris. From that consultation I went to Ponthois, I there received other letters to carry into England, I had a course to open their letters, and read what was in them; and in those letters was contained, that the prayers of that house were for the prosperity of that design, and they would not fail to be at the consultation at ——— of Warwickshire gentlemen. I fell sick at Monmouth, and Mr. Vaughan sent to me a Jesuit to confess me; but I was well before he came, and so was not confessed by him. I now come to the latter times.

L. C. J. You must speak it over to the Jury, that they and the prisoners may hear you.

Bedlow. The 25th of May, 1677, which was

last year, I was sent over with another packet of letters. I had no letters of consequence forward; and therefore did not call then at Wotton, but I called upon the lady Abbess at Dunkirk, and I went thence to Bruges and to Ghent, where I had some letters for the English nups, which I delivered to them. When I came to Doway, I found there that the monks were gone, that was Sheldon, Stapleton, and Latham, but the letters were directed to Paris, and therefore I made haste, and at Cambray I overtook them. And the letters were to give an account of the consultation held in the gallery at Somerset-house: All tending to the destruction of the Protestant religion, and killing the king; but I do not think fit to declare here who were the persons that were present at that consultation. At Cambray they were very joyful that there was so good a proceeding in England. At Paris when the letters were shewed, there was a letter written in a language which I did not understand, but, as I was told, in that letter they were charged in Paris by my lord Bellasis, that they did not proceed according to their promise to them in England; but, said Stapleton to me, My lord Bellasis nor the society in England need not to write thus to us, for we are not so backward but that we can lend men, and money, and arms too, and will upon occasion. From thence they sent me to Spain with a letter to an Irish Father: I did overtake him at Sa Mora. From thence I went with another letter to the rector of a College of Irish Jesuits in Salamanca. By their contrivance I was sent to St. Jago in Spain, where was another college of Irish Jesuits: there I staid till I had an answer to sir William Godolphin; and when I had the answer to that letter, I went for the letter from the rector at Salamanca. The Jesuits there told me, they would take care to send their own answer another way; And when they had made me that promise, I came away for England, and landed at Milford-Haven; All this reaches to none of those persons in particular; But what I now shall say shall be about them, only it was necessary I should speak of what I have said.

L. C. J. The meaning of all this is only to shew the Jury and satisfy them, that he was an agent for these men, and hath been employed by them for five years together, and he names you the particular places whither he hath been sent, to shew you the reasons of his knowledge in this matter, and upon what account he comes to be informed of this design.

Bedlow. Having received the news of that country, I did there take water, and landed again at Pensans, and when I came to London I gave the letter to Harcourt: what was in that packet I cannot particularly tell, for I was not so inquisitive as to look into the contents of it, but I know it was tending (as all the rest did) to the carrying on of this plot: Afterwards I was employed by Harcourt and Coleman to go to some parts of England to communicate the letters to some of the popish party.

L. C. J. Now turn to the Jury.

Bedlow. The Summer was past in the doing of that: In the beginning of August last there was a consultation and a close one at Harcourt's chamber, so as that they did not permit me to know any thing of it. I went out of town for a fortnight, and when I returned, I understood there had been such a meeting; I charged them with their privacy in it, and asked what was the private design of that consultation; they said it was something I should know in time: That it did not signify much at present, but in time I should know it: But then I understood by Pritchard, who was more my confident than any of the rest, that it was a design to kill the king: That Pickering and Grove had undertaken it a great while, and that they had been endeavouring a long while to bring it to pass.

Fenwick. Where was this meeting, and when?

Bedlow. Last August, at Harcourt's chamber.

Fenwick. Who were present there?

Bedlow. Be pleased to give me leave to go on; I will tell you by and by: Then I understood as I said, that it was to kill the king, but that Pickering and Grove failing of it, they had hired four ruffians that were to go to Windsor, and do it there, and that if I would come the next day, I should hear from Coleman the effect; When I came there I found Coleman was gone but Pritchard said there were some sent to Windsor, and that Coleman was going after them, and that he had given a messenger a guinea that was to carry the money to them. And he would presently be after them, for fear they should want opportunity to effect their design. Then I discoursed them, why they kept their design so long hid from me? They said it was a resolve of the society, and an order of my lord Bellasis, that none should know it but the society, and those that were actors in it. I seemed satisfied with that answer at present. About the latter end of August, or the beginning of September, (but I believe it was the latter end of August) I came to Harcourt's chamber, and there was Ireland and Pritchard, and Pickering, and Grove.

L. C. J. What part of August was it?

Bedlow. The latter end.

L. C. J. Do you say it positively, that it was the latter end of August.

Bedlow. My lord, it was in August; I do not swear positively to a day.

L. C. J. But you say it was in August?

Ireland. And that we were there present?

Bedlow. You were there, and Grove, and Pickering.

Ireland. Did you see me before?

Bedlow. You were present there, and Grove, and Pickering, and Pritchard, and Fogarthy, and Harcourt, and I.

L. C. J. What did you talk of there?

Bedlow. That the ruffians missing of killing the king at Windsor, Pickering and Grove should go on, and that Conyers should be joined with them; and that was to assassinate the king in his morning walks at Newmarket: and they had taken it so strongly upon them, that

they were very eager upon it: And Grove was more forward than the rest: And said, since it could not be done clandestinely, it should be attempted openly. And that those that do fall, had the glory to die in a good cause. But (said he) if it be discovered, the discovery can never come to that height, but their party would be strong enough to bring it to pass.

L. C. J. And you swear Ireland was there?

Bedlow. He was there, my Lord.

L. C. J. And heard all this?

Bedlow. Yes, my Lord; and so did Grove and Pickering, and the rest.

Ireland. My Lord, I never saw him before in my life.

L. C. J. What was the reward that you were to have for your pains in this business?

Bedlow. My Lord, the reward that I was to have (as it was told me by Harcourt) was very considerable: I belonged to one particular part of the society. There are others; and I presume, they each kept their particular messengers.

L. C. J. What was Grove to have?

Bedlow. Grove was to have fifteen hundred pound, if he escaped, and to be a continual favourite, and respected as a great person by all the church.

L. C. J. What was Pickering to have?

Bedlow. He was to have so many masses, I cannot presume to tell the number; but they were to be as many, as at twelve pence a mass should come to that money: These masses were to be communicated to all the Jesuits beyond the seas, that when he had done it, he might be sent away immediately.

L. C. J. What can you say of any of the rest?

Bedlow. My lord, I do not charge any more but them three.

L. C. J. What say you to Whitebread?

Bedlow. They have said, that he was very active in the plot; but I know it not.

L. C. J. That is not any evidence against him. What can you say, as to Fenwick?

Bedlow. No more than I have said, as to Mr. Whitebread: I only know him by sight.

L. C. J. Then he charges only these three upon oath, Ireland, Pickering, and Grove.

Ireland. Do you know sir John Warner?

Bedlow. I know Father Warner at St. Omers, and sir John Warner at Wotton by St. Omers.

Ireland. He named sir John Warner to be at Paris.

Bedlow. It was Sheldon I spoke of (my lord) at Paris.

Ireland. At least you are certain, that I was present at that consultation.

Bedlow. Yes: I am certain, you were there.

Ireland. Can you produce any witness, that you ever spoke to me before in your life?

Mr. Serj. Baldwyn. Do you know any thing of Mr. Whitebread's being present at any of the consults?

Bedlow. I do know, that Whitebread, and Fenwick both, have been several times at consultations; but I do not know what the particular resolves of those consultations were.

L. C. J. Did you ever hear them speak any thing in particular?

Bedlow. No, I have never heard them speak any thing in particular.

L. C. J. Where have you seen Fenwick?

Bedlow. I have seen Fenwick at Harcourt's chamber, and I have often heard him talked of; and it hath been told me, That nothing was done without Fenwick.

Whitebread. Are you sure you know us?

Bedlow. I do not say, you are the man that employed me; you are the man I was least acquainted with, of all the society; but I have seen you there.

Ireland. Can you bring any one that can testify it?

L. C. J. He must then have brought one of yourselves; and it may be, he cannot produce any such one.

Ireland. Nor no one else, except such a knight of the Post, as Mr. Oates.

L. C. J. You must be corrected for that, Mr. Ireland: You shall not come here to abuse the king's evidence. Nothing appears to us, that reflects upon Mr. Oates's testimony; and we must not suffer any such sort of language.

Mr. Just. Atk. Take off his credit as much as you can by proof, but you must not abuse him by ill language.

Mr. Finch. Can you tell the court and the jury, when it was that by agreement Grove should have the 1,500*l.*

Bedlow. He was to have it put into a friend's hands.

L. C. J. Do you know that friend's name?

Bedlow. No, my lord, I do not.

Mr. Finch. Do you know when that was to be delivered out to him?

Bedlow. As to the particular time of their agreement, I do not know it.

Mr. Finch. But this he says, That when the agreement was made, he was to have 1,500*l.*

L. C. J. And he says this, That Ireland was in August last, with Pickering and Grove, and others, at a consult; where he was also.

Ireland. But what if I prove I was not in London all August last, from the beginning to the end.

L. C. J. You heard them talk of this matter in August, at Harcourt's chamber, you say? What, did they talk of it as a matter they had agreed?

Bedlow. My lord, they brought it in, as being baulked in their design of killing the king at Windsor; and because that had not taken the effect they intended it, they should have Conyers joined to them, to do it at Newmarket.

Mr. Finch. Did they tell you when, and where the agreement was made?

L. C. J. No, he speaks not of that; but

they talked of the failure at Windsor: And therefore they did conclude, that Conyers should be joined to them, to do it at Newmarket.—*Bedlow.* Yes, my lord.

L. C. J. Have you any more to say?

Bedlow. My lord, I would only say this; If I had any to prove what I say, they must be parties as well as these persons.

Ireland. My lord, I will prove, That I was not in town in August all the month, by twenty witnesses: I will bring those that saw me in Staffordshire, and spoke with me all August.

L. C. J. Have you any more to ask him?

Whitebread. No.

Serj. Baldwin. Swear Mr. William Bedlow. And he was sworn.

Ireland. He does say, That he was familiar with me, and several other persons here; and therefore, I desire he may specify the place, and the company.

William Bedlow. I do not say, there was a familiarity; for I was a stranger to that part of the society.

L. C. J. You must take him right, Mr. Ireland; he hath not said, that he was of your familiar acquaintance.

Bedlow. I have seen you often, sir.

Ireland. Where?

Bedlow. At Monsieur le Faire's.

Ireland. Where was that?

Bedlow. At Somerset-house.

Ireland. Was there any one present besides?

Bedlow. Yes, several other priests and Jesuits of Somerset-house.

Ireland. Name one.

Bedlow. Signior Perrare.

Ireland. You say, you saw me and Perrare together at Somerset-house, I suppose, if signior Perrare may be brought hither—

Bedlow. My lord, Perrare is a priest in orders; and without doubt is in this business.

L. C. J. If he did see you, he must see you in such company as you keep, they were priests and Jesuits, and of your own religion; and we know very well what answers we are like to be put off with by men of your own persuasion at this time of day.

Ireland. My lord, if no body's oath can be taken that is of another persuasion than the church of England, it is hard.

L. C. J. Pray mind you do not object ingenuously: for you say, This witness swears he saw me in such company, why does he not produce them to testify it? Why? he does not come prepared to produce them; if he should, we know well how you are concerned one for another at this time; and we can hardly expect they should make true answers. But notwithstanding, if you will produce this Father Perrare, (he cannot be sworn because it is against the law, but) his testimony shall be heard, and let it go as far as it can.

Bedlow. If your lordship pleases, my lord, I would convince him that he does know me. Have you not been, sir, at Somerset-house?

Ireland. Yes, I have.

Bedlow. Do you know le Faire and Perrare?

Ireland. Yes, but I never saw you in their company in Somerset-house in my life, above once or twice.

Bedlow. Yes, you have twice at le Faire's.

L. C. J. Where is that le Faire? You would do well to produce him?

Bedlow. My lord, he is gone away, and is one against whom the king's proclamation is out.

L. C. J. You keep such company as run away, and then you require him to produce them, whom the king's proclamation cannot bring in.

Ireland. I keep none but honest company.

Bedlow. If your lordship pleases, I have one thing more that is very material to speak; at the same time that there was a discourse about these three gentlemen's being to destroy the king at Newmarket, at the same time there was a discourse of a design to kill several noble persons, and the particular parts assigned to every one. Knight was to kill the earl of Shaftsbury, Pritchard the duke of Buckingham, Oneile the earl of Ossory, Obrian the duke of Ormond.

L. C. J. Well, will you have any more of this?

Mr. Finch. You say, you saw Mr. Ireland say inass, where did you see him?

Bedlow. Not Mr. Ireland, but Mr. Fenwick, I have seen him say mass, and at Wild-house.

Oates. My lord, I did omit a consult wherein there was a design laid of taking away the duke of Ormond's life, and of a rebellion that was to be raised in Ireland. My lord, in the month of January last, there came letters from archbishop Talbot to London, which letters were perused; by Fenwick, and Ireland, and Whitebread, and when they were perused, they were sent and communicated to the Fathers at St. Omers. The contents of those letters were thus, That the Catholics had a fair prospect of effecting their designs in the kingdom of Ireland. And this letter was inclosed in a letter signed by Whitebread, Ireland, Fenwick, and others, I name no man's name that is not here.

L. C. J. You saw the letter?

Oates. Yes, I did see it, and read it, wherein they did give thanks unto God, that he was pleased to prosper their designs so fairly in Ireland; and withal they did say, that they would not leave a stone unturned to root out that abominable heresy out of that kingdom. Now what that abominable heresy was, I have nothing but a conjecture.

L. C. J. We all know what that is well enough, there needs no proof of that.

Oates. In the month of August, Fenwick, a little before he went to St. Omers, on the 21st of August, (as I think it was) that week that Bartholomew-fair began on (as I take it) he was then going to fetch home the provincial, and to carry some students with him, and he went unto St. Omers the Monday following; but then there was a consult, and at that consult Fenwick did consent to the contrivance of the death of the duke of Ormond, and for the rebellion

that was to be raised in Ireland after his death. And he did approve of the four Jesuits that were to kill my lord of Ormond, and did consent to send Fogarthy down to the archbishop of Dublin, in case the four good Fathers did not hit the business. Mr. Whitebread, my lord, did consent when he came over, as appears by their entry-books. For there came a letter from him dated as from St. Omers, but I concluded it did not come from thence, because it paid but two-pence.

Whitebread. Who was it that writ that letter?

Oates. My lord, this letter was dated as the latter part of August, and dated as from St. Omers, but the post mark upon it was but two-pence, to be paid for it; so that I do conclude thence Mr. Whitebread was then at esquire Leigh's house in . . . But in that letter he did like the proposal that was made about killing the duke of Ormond in that consult, and the letter was signed with his own hand.

L. C. J. I would gladly see that letter.

Oates. If I could see it, I could know it.

L. C. J. You have not that letter?

Oates. No, but they kept a book wherein they registered all their resolutions, and there it was entered.

L. C. J. You upon your oath say, That he as superior of them did keep a book, wherein they registered all their consults?

Oates. Yes, my lord.

L. C. J. You would do well to shew us your book, Mr. Whitebread.

Whitebread. We never kept any.

Oates. The consult did; for though the superior have an absolute power over the subject, yet they never do any thing of consequence without the consult. And this book was kept by the superior, and never opened but at the consult, and therein all the passages were registered.

L. C. J. Produce your book, and we shall see whether you cannot catch Mr. Oates in something or other.

Bedlow. My lord, that book I have seen, and therein all their consults are registered.

L. C. J. Was their books kept by them?

Bedlow. Yes, my lord, all the consults did keep books, and Mr. Langhorn was the person that registered all into one.

L. C. J. If a hundred witnesses swear it, they will deny it. Well, will you have any more?

Mr. S. Baldwyn. My lord, we will now call Mr. James Bedlow, this gentleman's brother, to shew you, that these sort of persons did resort to him frequently.

L. C. J. Are you sworn, sir?

J. Bedlow. Yes, my lord, I am.

L. C. J. Then let me ask you one short question. Do you know Mr. Ireland?

J. Bedlow. No.

L. C. J. Do you know Pickering or Grove?

J. Bedlow. I have heard of them.

L. C. J. Did your brother know any thing of them?

J. Bedlow. As for the conspiracy of killing

the king, I know nothing of it; but about his knowledge of Priests and Jesuits, and the converse he had beyond sea, that I can speak to. And I have very often heard these men's names named.

L. C. J. In what nature did he talk of them?

J. Bedlow. I know nothing of the Plot, and as for any Design I knew not what my brother knew, but I have heard him talk of them.

L. C. J. How did he talk of them?

J. Bedlow. He mentioned them as his acquaintance, the Jesuits there did ask him questions about them.

L. C. J. And did it appear to you they were of his acquaintance?

J. Bedlow. But I understood nothing of the Plot or Design, by the oath I have taken.

L. C. J. But did he speak as if he knew any of them?

J. Bedlow. For any certain knowledge that my brother had of them I cannot speak, but I have often heard him talk of them as people I thought he knew.

Mr. Finch. Do you know, that when he came over from beyond sea, that his lodging was frequented by any, and by whom?

J. Bedlow. Yes, there were many priests and Jesuits came to him.

Mr. Finch. Did your brother receive any money from them?

J. Bedlow. Yes, my lord, I have fetched many score of pounds for my brother from them.

L. C. J. The use, gentlemen, that the king's council make of this evidence, is only to shew, That his brother, Mr. Bedlow was conversant in their affairs, in that he hath received many a score of pounds in the managing of their business.

Sir Cr. Levinz. Pray, from whom had your brother that money?

J. Bedlow. I have proved that from the goldsmiths themselves that paid it, before the duke of Monmouth, my lord chancellor, and lord treasurer.

Mr. Finch. Have you received any considerable sum at a time?

J. Bedlow. Yes, I have.

Mr. Finch. How much?

J. Bedlow. Fifty or threescore pounds at a time.

Finch. Of whom?

J. Bedlow. Of Priests and Jesuits.

Finch. For whom?

J. Bedlow. For my brother.

L. C. J. Will you have any more evidence?

Mr. Serj. Baldwyn. Yes, my lord, the next evidence we produce, is concerning a letter; there was a letter written by one Mr. Peters, that is now a prisoner, to one Tenstall a Jesuit; and this letter does mention, That there was a meeting appointed by order of Whitebread to be at London.

L. C. J. What is that to them, and how come you by it?

Serj. Baldwyn. Peters is now in prison for things of this nature; and you have heard of

one Harcourt, and out of his study this letter was taken.

W. Bedlow. My lord, may I not have liberty to withdraw? My head akes so extremely, I cannot endure it.

L. C. J. Mr. Bedlow, you may sit down, but we cannot part with you yet.

Ireland. I desire, my lord, that his brother may be asked, how long he had known me.

L. C. J. Can you recollect by the discourses you have heard, how long he might have known Ireland?

J. Bedlow. No, my lord, it was out of my way.

L. C. J. But did he talk of Ireland?

J. Bedlow. Yes, my lord, he did.

Ireland. As being where, in what place?

J. Bedlow. I cannot tell.

Ireland. He named one place three years ago, it was at Paris.

L. C. J. But he does not say that you were there, but that you were familiarly talked of there; so that the meaning is, they were acquainted with you: And this is only brought to shew, that it is not a new-taken-up thing by Bedlow, though you seemed never to have known any such man; yet he swears, saith he, I have heard such persons talked of as my brother's acquaintance.

Ireland. If his brother had talked of me three years ago, why then he must have known me three years ago.

L. C. J. I will ask him that question: How long is it since you knew him?

W. Bedlow. I have known him but since August this same last summer; but, my lord, I talkt five, and four years ago of several English Monks and Jesuits that were then at Rome, that I never knew in my life.

L. C. J. His answer then is this, saith his brother, I have heard him talk of them three years ago; I then asked Bedlow, how long he had known them? saith he, I did not know them three years ago, though I did talk of them three years ago; for we have talkt of many that we never saw in our lives: So it seems he had occasion to make use of your names frequently, and join them with those of some he knew better: But he never knew you 'till August last; but he did discourse of you three years ago, as known for such sort of persons.

Ireland. He must hear somebody speak of us, as being in some place or another.

W. Bedlow. I will satisfy you in that. We talk of some now in England, that are to be sent a year hence.

L. C. J. If you can produce but Harcourt and Le Faire, they will do you great service now.

W. Bedlow. My lord, as for example, Father Pritchard is confessor to such a gentleman in England now this year; a year hence we must send such a one hither, and he must go back. And we may talk of that person as in England, two years before.

L. C. J. You need not trouble yourselves about that. Mr. Ireland, you shall have a fair

trial, but you will not have cunning or art enough to deceive the jury, nor will Mr. Whitebread have learning enough to baffle the court.

Then Mr. W. Bedlow and his Brother withdrew.

Serj. *Baldwyn*. My lord, The next evidence that we shall give, as I said, is a letter from one Peters to one Tonstall, and this we will bring home to Mr. Whitebread, for it is an invitation to be at the consult held at London the 24th of April; and it was written about that very time, to wit, the 3d of April. It was written from London, and it mentions, that Mr. Whitebread did fix the meeting at that time. We will tell you how we came by the letter. Mr. Harcourt, who is one of the principal persons here, and at whose house was the meeting you heard of, he himself is fled away, when they came to look after him upon the discovery that was made: And Mr. Bradley, who was the messenger to seize upon him, did according to direction search his study, and did there find this letter, which we conceive, my lord, to be very good evidence; this Harcourt being a party, and one at whose house the last meeting was, and others was. We do conceive a letter from one of that party, bearing date about the same time, concerning Mr. Whitebread's Summons, who was master of the Company, is very good evidence against them.

L. C. J. If you had found it in Mr. Whitebread's custody, you say something.

Just. *Bertie*. My brother puts it so: We find a letter directed to Mr. Whitebread, let the matter of it, be what it will, it is found among Harcourt's papers.

Serj. *Baldwyn*. No, my Lord; we find a letter from one Mr. Peters now a prisoner directed to Mr. Tonstall concerning the consult summoned by Whitebread, and this we find in Harcourt's possession.

L. C. J. I cannot understand how this may affect Mr. Whitebread.

Mr. *Finch*. Pray, my Lord, if your lordship please, this is the use we make of this letter; we do not produce it as another evidence of this design, but to fortify that part of the evidence which hath already been given, That there was a consult summoned at that time, and to be held with all the privacy that could be, to prevent discovery. And this is the paper that we find in the custody of Harcourt, one of the conspirators, who is fled for it.

L. C. J. Look you, Mr. Finch, if you use it not against any particular person, but as an evidence in general that there was a plot amongst them, you say right enough; but it cannot be evidence against any one particular person of the prisoners at the bar.

Mr. *Finch*. My lord, it can affect no particular person; but we only use it in the general, and we pray it may be read.

L. C. J. Gentlemen of the jury, before you hear the letter read, I would say this to you, Let them have fair play; whatsoever they mete unto others, we will shew them justice. They shall have as fair play upon their trials

as any persons whatsoever. The thing that is offered to be given in evidence, is a letter written by one Peters a prisoner for this plot, and directed to one Tonstall a jesuit, and this is found in Harcourt's chamber, a priest that is fled, and one whom the king hath commanded to render himself by his proclamation; but he does not. Now in that letter there is a discourse of a design and plot on foot. This cannot be evidence to charge any one particular person of these; but only to satisfy you and all the world, that those letters and papers that are found amongst their own priests, do fortify the testimony of Mr. Oates, that there is a general plot: It is not applied to any particular person.

Oates. The day before the consult met, Mr. Whitebread did ask Mr. Peters whether he had summoned the consult according to his direction. Mr. Peters told him, Yes, he had writ into Warwickshire and Worcestershire.

Whitebread. When was this?

Oates. The day before the consult met.

Whitebread. Did you hear me ask Mr. Peters?

Oates. Yes, I did hear you, and I did hear him say he had done it. Now, my Lord, this letter that is found in Harcourt's study shews, that Mr. Whitebread had directed Mr. Peters in this consult.

Serj. *Baldwyn*. Pray swear sir Tho. Doleman to shew how he came by it. Which was done.

Serj. *Baldwyn*. Sir Thomas Doleman, what do you know of this letter?

Sir Tho. *Doleman*. This letter in my hand was taken amongst Harcourt's papers, in a great bag of paper; and searching them I did find this letter amongst the rest.

Then the letter was shewn to Mr. Oates.

L. C. J. Is that Mr. Peter's hand?

Oates. Yes, my lord, it is.

L. C. J. Were you acquainted with his hand?

Oates. Yes, my Lord, I have often read it in letters.

L. C. J. Do you know Tonstall?

Oates. My Lord, I do not know him by that name; If I did see him, perhaps I might know men better by their faces.

Sir Cr. *Letinz*. Pray read it.

Cl. of the Cr. This is dated February 23, 1677. And superscribed thus, ("These for his honoured friend Mr. William Tonstall at Burton.")

"Honoured dear Sir,

"I have but time to convey these following particulars to you. First, I am to give you notice, that it hath seemed fitting to our Master Consult, Prov. &c. to fix the 21st day of April next *Stylo veteri*, for the meeting at London of our congregation, on which day all those that have a suffrage are to be present there, that they may be ready to give a beginning to the same on the 24th, which is the next after St. George's-day. You are warned to have *jus suffragii*, and therefore if your occasions should not permit you to be pre-

'sent, you are to signify as much, to the end
'others in their ranks be ordered to supply
'your absence: Every one is minded also, not
'to hasten to London long before the time ap-
'pointed, nor to appear much about the town
'until the meeting be over, lest occasion should
'be given to suspect the design. Finally,
'secrecy, as to the time and place, is much re-
'commended to all those that receive summons,
'as it will appear of its own nature necessary.'

L. C. J. So it was very necessary, indeed.
Cl. of Cr. There is more of it my Lord.

'Tertio pro domino solono disco
'Ben-fact. Proo. Lunicnsis.

'I am straitened for time, that I can only
'assure you, I shall be much glad of obliging
'you any ways, Sir, your servant

EDWARD PETRE,

"Pray my service where due, &c."

L. C. J. You know nothing of this letter,
Mr. Whitebread?

Whitebread. No, my Lord, nothing at all.

L. C. J. Nor you, Mr. Ireland?

Ireland. It is none of my letter, my Lord.

L. C. J. Did you never hear of it before?

Ireland. Not that I know of in particular.

L. C. J. Well, have you done with the
evidence for the king?

Serj. Baldwyn. Pray, sir Thomas Doleman,
will you tell my Lord, did Mr. Oates give in
this testimony of the consult, to be the 24th of
April, before this letter was found?

Sir T. Doleman. Mr. Oates gave in his in-
formation about this matter, to the king and
council, four or five days before we found this
letter.

Serj. Baldwyn. You were speaking of the
seals that were made use of to sign com-
missions, have you them in the Court?

Oates. Yes, my lord, they are in the Court,
and they were taken out of the Provincial's
chamber.

Whitebread. I confess they had the seals out
of my chamber; but the taking of them was
more than they had power to do.

Then the Seals were shewn to the Court and
the Jury.

Mr. Finch. It hath been told you already,
gentlemen, what use these seals were put unto;
to seal commissions to raise an army. And
we have now done with our evidence for the
king, until we hear what the prisoners say.

L. C. J. Before you come to make your de-
fence, I will do that which I think in justice
and honesty, and according to the duty of my
place and my oath, I ought to do; that is, to
say something to the jury, before the prisoners
make their own defence. Here are five that
stand indicted of high-treason: I must tell you
this, That as to three of them, that is to say,
Ireland, Pickering and Grove, both Mr. Oates
and Mr. Bedlow have sworn the thing flat
upon them: Mr. Oates his testimony is full
against them all; but Mr. Bedlow does only

agree with him to charge three, and that in this
particular: saith he, I was present at Har-
court's chamber when Ireland was there, and
Pickering and Grove, where they discoursed of
their defeat about their design against the king
at Windsor; and there they came to a new
agreement, to do it at New-Market. So that
here is now, as the king's counsel did open it
to you at the first, as there ought to be, two
witnesses; so here are two, which though they
speak as to a different circumstance of time,
yet they prove one treasonable fact at several
times: for if killing the king be the fact in
question, and one proves they would do it by
one thing, and another by another; and one
in one place, and another in another; yet these
are two witnesses to prove one fact, that is, the
substance, which is, the killing of the king.
So that there are two witnesses against them
three, expressly proving a confederacy to kill
the king: for Ireland's being by, and con-
senting, was the same thing, and as much,
as if he had been to do it with Grove
and Pickering; for there are no accessaries
in treason. I do acknowledge, that Mr.
Oates hath given a very full and ample
testimony, accompanied with all the cir-
cumstances of time and place, against them
all, that may go far to weigh with you, all
things considered, to believe there is a Plot;
yet I do not think that they have proved it
against Whitebread and Fenwick by two wit-
nesses: so that though the testimony be so full,
as to satisfy a private conscience, yet we must
go according to law too. It will be conve-
nient, from what is already proved, to have
them stay until more proof may come in: it is
a great evidence that is against them; but it
not being sufficient in point of law, we dis-
charge you of them; it is not a legal proof to
convict them by, whatsoever it may be to sa-
tisfy your consciences. Therefore remove Mr.
Fenwick and Mr. Whitebread from the bar,
and let the other three say what they will for
themselves.*

L. C. Baron. (William Montague, esq.)
(speaking to the gaoler,) you must understand
they are no way acquitted; the evidence is so
full against them by Mr. Oates's testimony, that
there is no reason to acquit them. It is as flat,
as by one witness can be; and the king hath
sent forth a proclamation for further discovery;
before the time therein prefixed be out, no
question there will come in more evidence:
therefore keep them as strict as you can.

Then Whitebread and Fenwick were taken
back to the gaol by the keeper.

L. C. J. Now, gentlemen, you shall have
liberty to make your full defence.

Ireland. First, I shall endeavour to prove
there are not two witnesses against me: for
that which he says, of my being at Harcourt's
chamber in August, is false; for I will prove

* See the account of their Trials, June 13,
1679, *infra*, and the Note thereto.

I was all August long out of town, for I was then in Staffordshire.

L. C. J. Call your witnesses.

Ireland. If there be any of them here.

L. C. J. Whoever comes to give evidence for you, shall go and come in safety; they shall not be trepanned for any thing of that, but they shall be heard.

Ireland. My lord, we are kept so strict, that we are not permitted to send for any body.

L. C. J. As soon as your sister came to me, I ordered she should have access to you, and that you should have pen, ink and paper, in order to your defence; therefore call those witnesses you have, to prove what you say.

Ireland. I can only say this, That last August upon the 3rd day I went down to Staffordshire with my lord Aston, and his lady, and his son, and sir John Southcot and his lady, and all these can testify that I went down with them. Here is Mr. John Aston in town, if he may be found, who was in my company all August in Staffordshire.

L. C. J. Will you call that gentleman? Crier, call him.

Crier. Mr. John Aston.

Ireland. It is an hundred to one if he be here; for I have not been permitted so much as to send a scrap of paper.

L. C. J. Your sister had leave to go to whom you thought fit, in your behalf. You said you would prove it. Why don't you?

Ireland. I do as much as I can do.

L. C. J. What, by saying so?

Ireland. Why, I do name them that can testify.

L. C. J. If naming them should serve, you must have a law made on purpose for you.

Ireland. Then there is no help for innocence.

Recorder. To save him that labour, the king's evidence will prove, that he was in town at that time.

Serj. Baldwyn. Swear Sarah Paine. Which was done.

Serj. Baldwyn. My lord, this person was Mr. Grove's maid.

L. C. J. I believe you know your maid, Mr. Grove, don't you? Look upon her, she was your servant.

Grove. Yes, my lord, she was so, she is not so now.

L. C. J. Do you know Mr. Ireland?

Sarah Paine. Yes, my lord.

L. C. J. Do you know whether Mr. Ireland was in town in August last, or no?

S. Paine. I saw him at his own house about a week before I went with my lord Arlington to Windsor.

L. C. J. When was that?

S. Paine. That was about a week after the king was gone thither.

L. C. J. Sir Tho. Doleman, what day was it the king was gone thither?

Sir T. Doleman. About the 13th of August.

L. C. J. Thirteen and seven is twenty; then you went to Windsor about the 20th, it

seems, and you say that eight days before you saw Mr. Ireland at his own house?

S. Paine. Yes, my lord, about eight or nine days before that, I did see him at the door of his own house, which was a Scrivener's in Fetter-Lane. He was going into his own lodging.

L. C. J. How long had you known him before that time?

S. Paine. My lord, I knew him, for he came often to our house, when I lived at Mr. Grove's; he was the man that broke open the packet of letters that my master carried about afterwards, and he sealed all the packets that went beyond the seas. And he opened them still when the answers returned back again.

Ireland. Now must all the people of my lodging come and witness that I was out of my lodging all August.

L. C. J. Call them.

Ireland. There is one Anne Ireland.

L. C. J. Crier, call her.

Crier. Anne Ireland: Here she is.

L. C. J. Come, mistress, what can you say concerning your brother's being out of town in August?

A. Ireland. My lord, on Saturday the 3rd of August he set out to go into Staffordshire.

L. C. J. How long did he continue there?

A. Ireland. Till it was a fortnight before Michaelmas.

L. C. J. How can you remember that it was just the 3rd of August?

A. Ireland. I remember it by a very good circumstance, because on the Wednesday before, my brother and my mother, and I, were invited out to dinner; we stayed there all night, and all Thursday night, and Friday night my brother came home, and on Saturday he set out for Staffordshire.

L. C. J. Where was it, maid, that you saw him?

S. Paine. I saw him going in at the door of their own house.

L. C. J. When was that?

S. Paine. About a week before I went with my lord chamberlain to Windsor, which was a week after the king went thither.

L. C. J. That must be about the 12th or 13th. Are you sure you saw him?

S. Paine. Yes, my lord, I am sure I saw him.

L. C. J. Do you know this maid, Mr. Ireland?

Ireland. I do not know her, my lord.

L. C. J. She knows you by a very good token. You used to break open the letters at her master's house, and to seal them.

S. Paine. He knows me very well, for I have carried several letters to him, that came from the carrier as well as those that came from beyond sea.

L. C. J. They will deny any thing in the world.

Ireland. I profess, I do not know her. Twenty people may come to me, and yet I not know them; and she having been Mr. Grove's servant, may have brought me letters, and yet I not remember her. But, my lord, here is my

mother Eleanor Ireland, that can testify the same.

L. C. J. Call her then.

Crier. Eleanor Ireland.

E. Ireland. Here.

L. C. J. Can you tell when your son went out of town?

E. Ireland. He went out of town the 3rd of August, towards Staffordshire.

Ireland. My lord, there is Mr. Charles Gifford will prove that I was a week after the beginning of September, and the latter end of August in Staffordshire.

L. C. J. That will not do: for she says that she saw you in London about the 10th or 12th of August; and she makes it out by a circumstance, which is better evidence than if she had come and sworn the precise day wherein she saw him; for I should not have been satisfied, unless she had given me a good account why she did know it to be such a day. She does it by circumstances, by which we must calculate that she saw you about the 12th or 13th day. She went to my lord Arlington's at such a day, a week after the king went to Windsor, and that was about the 13th, and she saw you a week before she went to my lord Arlington's, which must be the 12th or 13th. You say you went out of town the 3rd of August; who can swear you did not come back again?

Ireland. All the house can testify I did not come to my lodging.

E. Ireland. He went out of town the 3rd of August, and did not return till a fortnight before Michaelmas.

L. C. J. Did you lie at his house?

E. Ireland. I did then, my lord.

L. C. J. What, all that while?

E. Ireland. Yes, my lord.

L. C. J. So did your daughter too, did she?

E. Ireland. Yes, she did.

Ireland. There are others that did see me the latter end of August in Staffordshire.

L. C. J. And you would fain have cramp't him up, between the 20th and 31st; and then, it is possible, you might be in Staffordshire.

Ireland. If I might have been permitted to send in for such witness as I would have had, I could have brought them.

Recorder. Why, have you not a note of what witnesses you are to call? Why don't you call them according to that note?

Ireland. I had that but this morning.

L. C. J. Why, did you not send for them before, to have them ready?

Recorder. It is his sister that brings that note of the witnesses that he should call, and now they are not here.

A. Ireland. There was one Engletrap, and one Harrison, had promised to be here, that went with him into Staffordshire.

Oates. My lord, whenever we had a mind to come to town, we commonly writ our letters, and let them come to town two days after us. So that we might prove by the writing of such letters, if any question did arise, that we could

not be at such a place at such a time. And when we pretended to go into the country, we have gone and taken a chamber in the city, and have had frequent cabals at our chambers there. Mr. Ireland writ a letter as dated from St. Omers, when I took my leave of him at his own chamber, which was betwixt the 12th and 24th in London. He was there; and afterwards when I went to Fenwick's chamber he came thither; a fortnight or ten days at least, I am sure it was in August.

L. C. J. Here are three witness upon oath about this one thing: Here is Mr. Bedlow that swears the fact, upon which the question arises to be in August; that you deny, and say you were out of town then: he produces a maid here, and she swears that about that time which by calculation must be about the 11th or 12th, she saw you going into your own house. And here is a third witness, who swears he knows nothing of this matter of fact, but he knows you were in town then, and that he took his leave of you as going to St. Omers.

Oates. Whereas he says, that the beginning of September he was in Staffordshire, he was in town the 1st of September, or 2nd,* for then I had of him twenty shillings.

Ireland. This is a most false lye; for I was then in Staffordshire. And the witnesses contradict themselves; for the one saith, he took his leave of me, as going to St. Omers the 12th; the other saith, it was the latter end of August I was at Harcourt's chamber.

L. C. J. He does not say you went, but you pretended to go.

A. Ireland. Here is one Harrison, that was a coachman that went with them.

L. C. J. Well, what say you, friend? Do you know Mr. Ireland?

Harrison. I never saw the man before that time in my life, but I met with him at St. Albans.

L. C. J. When?

Harrison. The 5th of August. There I met with him, and was in a journey with him to the 16th.

L. C. J. What day of the week was it?

Harrison. Of a Monday.

L. C. J. Did he come from London on that day?

Har. I cannot tell that. But there I met him.

L. C. J. What time?

Har. In the evening.

L. C. J. Whereabouts in St. Albans?

Har. At the Bull-inn where we lodged.

L. C. J. Mr. Ireland, you say you went on Saturday out of town, did you stay at St. Albans till Monday?

Ireland. No, I went to Standon that day, and lay there on Saturday and Sunday night; on Monday I went to St. Albans.

L. C. J. What from thence?

* This was the perjury assigned in the first count of the indictment upon which Oates was convicted, May 9th, 1685. See the trial *infra*.

Ireland. Yes my lord.

L. C. J. Why did you go thither? Was that in your way?

Ireland. I went thither for the company of sir John Southcot and his lady.

L. C. J. How did you know that they went thither?

Ireland. I understood they were to meet my lord Aston, and lady, there.

L. C. J. What, on Monday night?

Ireland. Yes my lord.

Har. From thence I went with him to Tixwel, to my lord Aston's house, there we were all with him.

L. C. J. Were you my lord Aston's coachman?

Har. No, my lord, I was servant to sir John Southcot.

L. C. J. How came you to go with them?

Har. Because my lord Aston is my lady Southcot's brother.

L. C. J. How long was you in his company?

Har. From the 5th of August to the 16th, and then I was with him at West-Chester.

Mr. Just. Atkins. You have not yet talked of being at West-Chester all this while.

Ireland. My lord I must talk of my journey by degrees.

L. C. J. Before you said you were all August in Staffordshire; come, you must find out some evasion for that.

Ireland. In Staffordshire, and thereabouts.

L. C. J. You witness, who do you live with?

Har. With sir John Southcot.

L. C. J. Who brought you hither?

Har. I came only by a messenger last night.

L. C. J. Was not sir John Southcot in that journey himself?

Har. Yes my lord, he was.

L. C. J. Then you might as well have sent to sir John Southcot himself to come.

A. Ireland. I did it of myself; I never did such a thing before, and did not understand the way of it.

Ireland. It was mere chance she did send for those she did.

L. C. J. But why should she not send for sir John himself?

Ireland. She did not know that sir John was there.

L. C. J. You were not denied to send for any witnesses, were you?

Ireland. I was expressly denied; they would not let me have one bit of paper.

L. C. J. Fellow, what town was that in Staffordshire? tell me quickly.

Har. It was Tixwell, by my Lord Aston's; there we made a stay for three or four days, then we went to Nantwich, and so to West-Chester.

L. C. J. Were not you at Wolverhampton with him?

Har. No, my Lord, I was not there, I left him at West-Chester.

Ireland. My Lord, I was at Wolverhampton with Mr. Charles Gifford, and here he is to attest it.

L. C. J. Well, Sir, what say you?

Gifford. My Lord, I saw him there a day or two after St. Bartholomew's day, there he continued till the 9th of September; the 7th of September I saw him there, and I can bring twenty and twenty more, that saw him there. Then, as he said, he was to go towards London, I came again thither on the 9th, and there I found him. And this is all I have to say.

Oates. My Lord, I do know that day in September I speak of by a particular circumstance.

Ireland. My Lord, there is one William Bowdrel, that will testify the same, if I might send for him.

L. C. J. Why han't you him here.

Ireland. She hath done what she can to bring as many as she could.

L. C. J. Have you any more witnesses to call.

Ireland. I cannot tell whether there be any more here, or no.

L. C. J. Mr. Grove, what say you for yourself?

Grove. Mr. Oates says he lay at my house; my Lord I have not been able to send for any witnesses, and therefore I know not whether there be any here. They could prove that he did not lie there. He says he saw me receive the Sacrament at Wild-house, but he never did; and if I had any witnesses here, I could prove it.

L. C. J. He tells it you with such and such circumstances, who lay there at that time.

Grove. He did never lie there.

L. C. J. Why, you make as if you never knew Mr. Oates.

Grove. My Lord, I have seen him, but he never lay at my house.

L. C. J. Mr. Pickering, what say you for yourself? You rely upon your masses.

Pickering. I never saw Mr. Oates, as I know of, in my life.

L. C. J. What say you to Bedlow? He tells you he was with you in Harcourt's chamber such a day.

Pickering. I will take my oath I was never in Mr. Bedlow's company in all my life.

L. C. J. I make no question but you will; and have a dispensation for it when you have done. Well, have you any witnesses to call?

Pickering. I have not had time to send for any.

L. C. J. You might have moved the court, when you came at first, and they would have given you an order to send for any.

Ireland. Methinks there should be some witnesses brought that know Mr. Oates, to attest his reputation; for I am told, there are those that can prove very ill things against him, they say he broke prison at Dover.

L. C. J. Why have you not your witnesses here to prove it?

Ireland. We could have had them, if we had time.

L. C. J. See what you ask now; you would have time, and the jury are ready to go together about their verdict.

Ireland. Why, we desire but a little time to make out our proof.

L. C. J. Only you must tie up the jury, and they must neither eat nor drink till they give in a verdict.

Ireland. Then we must confess, there is no justice for innocence.

L. C. J. Well, if you have any more to say, say it.

Ireland. My Lord, I have produced witnesses that prove what I have said.

L. C. J. I will tell you what you have proved, you have produced your sister and your mother and the servant of Southcot; they say you went out the 3rd of August, and he gives an account you came to St. Albans on the 5th, and then there is another gentleman, Mr. Gifford, who says he saw you at Wolverhampton till about a week in September. Mr. Oates hath gainsaid him in that, so you have one witness against Mr. Oates for that circumstance. It cannot be true what Mr. Oates says, if you were there all that time, and it cannot be true what Mr. Gifford says, if you were in London then. And against your two witnesses, and the coachman, there are three witnesses, that swear the contrary, Mr. Oates, Mr. Bedlow, and the maid; so that if she and the other two be to be believed, here are three upon oath against your three upon bare affirmation.

Ireland. I do desire time, that we may bring in more witnesses.

L. C. J. Come, you are better prepared than you seem to be. Call whom you have to call. Can you prove that against Mr. Oates which you speak of? If you can, call your witnesses, in God's name. But only to asperse, though it be the way of your church, it shall not be the way of trial amongst us. We know you can call Heretics, and ill names, fast enough.

Ireland. That Hillsley that he names can prove, if he were here, that Mr. Oates was all the while at St. Omers.

L. C. J. Will you have any more witnesses called? If you will, do it, and do not let us spend the time of the court thus.

Grove. Here is Mrs. York, that it my sister, will your lordship please to ask her, whether she saw that gentleman at my house?

L. C. J. What say you Mistress?

York. No, my lord, not I.

Mr. Just. Atk. Nor I neither; might not he be there for all that?

Oates. To satisfy the court, my lord; I was in another habit, and went by another name.

L. C. J. Look you, he did as you all do, disguise yourselves.

Ireland. Though we have no more witnesses, yet we have witnesses that there are more witnesses.

L. C. J. I know what your way of arguing is; that is very pretty; you have witnesses that can prove you have witnesses, and those witnesses can prove you have more witnesses, and so in infinitum. And thus you argue in every thing you do.

Ireland. We can go no further than we can go, and can give no answer to what we did not know would be proved against us.

L. C. J. Then look you, gentlemen——

Ireland. My lord, sir Denny Ashburnham promised to be here to testify what he can say concerning Mr. Oates.

L. C. J. Call him.

Crier. Sir Denny Ashburnham. Here he is, my lord.

L. C. J. Sir Denny, what can you say concerning Mr. Oates?

Sir D. Ashburnham. My lord, I received a letter this morning, which I transmitted to Mr. Attorney, and this letter was only to send to me a copy of an indictment against Mr. Oates of perjury; I did send it accordingly with my letter to Mr. Attorney. He hath seen the letter, and what the town says to me in it.

Att. Gen. (Sir William Jones.) I have seen it, there is nothing in it.

L. C. J. Do you know any thing of your own knowledge?

Sir D. Ashburnham. I do know Mr. Oates, and have known him a great while; I have known him from his cradle, and I do know that when he was a child, he was not a person of that credit that we could depend upon what he said.

L. C. J. What signifies that?

Sir D. Ashburnham. Will you please to hear me out, my lord? I have been also solicited by some of the prisoners who sent to me, hoping I could say something that would help them in this matter: Particularly last night one Mistress Ireland, sister to the prisoner at the bar, a gentlewoman I never saw before in my life, she came to me, and was pressing me hard, that I would appear here voluntarily to give evidence for the prisoner. I told her, No, I would not by any means in the world, nor could I say any thing, as I thought, that would advantage them; for I told her, though, perhaps, upon my knowledge of Mr. Oates in his youth, had this discovery come only upon Mr. Oates's testimony, I might have had some little doubt of it; but it was so corroborated with other circumstances that had convinced me, and I would not speak any thing against the king's witnesses, when I myself was satisfied with the truth of the thing: And I do think truly that nothing can be said against Mr. Oates to take off his credibility; but what I transmitted to Mr. Attorney, I had from the town of Hastings, for which I serve.

L. C. J. What was in that indictment?

Sir D. Ashburnham. It is set forth, that he did swear the peace against a man, and at his taking his oath did say, that there were some witnesses that would evidence such a point of fact, which, when they came, would not testify so much, and so was forsworn.

L. C. J. What was done upon that indictment?

Sir D. Ashburnham. They did not proceed upon it; but here is the letter and the copy of the indictment.

Mr. Serjeant *Baldwin*. My lord, we desire it may be read, and see what it is.

Att. Gen. It is only a certificate, pray let it be read.

L. C. J. I do not think it authentic evidence.

Att. Gen. But if I consent to it, it may be read.

L. C. J. If you will read it for the prisoners you may, you shall not read it against them. If there be any strain, it shall be in favour of the prisoners, and not against them.

Att. Gen. It is nothing against the prisoners, nor for them; but however, if your lordship be not satisfied it should be read, let it alone.

L. C. J. Truly, I do not think it is sufficient evidence, or fit to be read.

A. Ireland. I went to another, col. Shakesby, who was sick, and could not come, but could have attested much as to this.

L. C. J. Have you any more witnesses?

Ireland. I have none, nor I have not time to bring them in.

L. C. J. If you have none, what time could have brought them in? But you have called a gentleman that does come in, and truly he hath done you very great service; you would have had him testified against Mr. Oates; he saith he hath known him ever since he was a child, and that then he had not so much credit as now he hath: And had it been upon his single testimony that the discovery of the plot had depended, he should have doubted of it; but Mr. Oates's evidence, with the testimony of the fact itself, and all the concurring evidences which he produces to back his testimony, hath convinced him that he is true in his narrative.

Sir D. Ashburnham. Your lordship is right in what I have spoken.

L. C. J. Have you any more witnesses, or any thing more to say for yourselves?

Ireland. If I may produce on my own behalf pledges of my own loyalty, and that of my family—

L. C. J. Produce whom you will.

Ireland. Here is my sister and my mother can tell how our relations were plundered for siding with the king.

L. C. J. No, I will tell you why it was; it was for being papists, and you went to the king for shelter.

Ireland. I had an uncle that was killed in the king's service; besides, the Pendrels and the Giffards that were instrumental for saving the king, after the fight at Worcester, are my near relations.

L. C. J. Why, all those are papists.

Pickering. My father, my lord, was killed in the king's party.

L. C. J. Why then do you fall off from your father's virtue?

Pickering. I have not time to produce witnesses on my own behalf.

Ireland. I do desire time to bring more witnesses.

VOL. VII.

Grove. As I have a soul to save, I know nothing of this matter charged upon me.

L. C. J. Well, have you any thing more to say?

Ireland. No, My Lord.

L. C. J. You of the king's counsel, will you sum up the evidence?

Mr. Serj. Baldwyn. No, my lord, we leave it to your Lordship.

Cl. of Cr. Crier, make proclamation of silence.

Crier. O Yes! All manner of persons are commanded to keep silence upon pain of imprisonment.

Then the Lord Chief Justice directed the Jury thus:

L. C. J. Gentlemen, you of the jury! As to these three persons, Ireland, Pickering, Grove, (the other two you are discharged of) one of them, Ireland it seems, is a priest. I know not whether Pickering be or no; Grove is none, but these are the two men that should kill the king, and Ireland is a conspirator in that plot. They are all indicted for conspiring the king's death, and endeavouring to subvert the government, and destroy the Protestant Religion, and bring in popery. The main of the evidence hath gone upon that foul and black offence, endeavouring to kill the king. The utmost end was, without all question, to bring in Popery, and subvert the Protestant religion; and they thought this a good means to do it, by killing the king. That is the thing you have had the greatest evidence of. I will sum up the particulars, and leave them with you.—It is sworn by Mr. Oates expressly, That on the 24th of April last there was a consultation held of priests and jesuits. They are the men fit only for such a mischief, for I know there are abundance of honest gentlemen of that persuasion, who could never be drawn to do any of these things, unless they were seduced by their priests, that stick at nothing for their own end: he swears expressly, that the consult was begun at the White-Horse tavern in the Strand, that they there agreed to murder the king; that Pickering and Grove were the men that were to do it, who went afterwards and subscribed this holy league of theirs, and signed it every one at his own lodging, Whitebread at his, Ireland at his, and Fenwick at his, two of which are out of the case, but they are repeated to you only to shew you the order of the conspiracy. That afterwards Pickering and Grove did agree to the same, and they received the sacrament upon it as an oath, to make all sacred, and a seal, to make all secret.

Mr. Bedlow hath sworn as to that particular time of killing the king by Pickering and Grove though they were not to give over the design, but there were four that were sent to kill the king at Windsor. Mr. Oates swears there was an attempt by Pickering in March last, but the flint of the pistol happening to be loose, he durst not proceed, for which he was rewarded with penance. He swears there were four hired

K

to do it; that fourscore pounds was provided for them. He saw the money: and swears he saw it delivered to the messenger to carry it down.

Ireland. At what time was that?

L. C. J. In August there was an attempt first by Pickering and Grove. They then not doing of it four other persons (Irishmen) were hired to do it, and 10,000*l.* proffered to sir George Wakeman to poison the king. Thus still they go on in their attempts, and, that being too little, 5,000*l.* more was added. This is to shew you the gross of the plot in general; and also the particular transactions of these two murderers Grove and Pickering, with the conspiracy of Ireland. Bedlow swears directly that in August last, these three and Harcourt, and Pritchard and Le Faire, being all together in a room, did discourse of the disappointment the four had met with in not killing the king at Windsor; and there the resolution was the old stagers should go on still, but they had one Conyers joined to them, and they were to kill the king then at Newmarket. He swears they did agree to do it; that Ireland was at it; and that all three did consent to that resolve. So that here are two witnesses that speak positively with all the circumstances of this attempt, of the two to kill the king, and the confederacy of Ireland, all along with them. Now, I must tell you, there are no accessaries, but all principals, in Treason. It may seem hard, perhaps, to convict men upon the testimony of their fellow-offenders, and if it had been possible to have brought other witnesses, it had been well: but, in things of this nature, you cannot expect that the witnesses should be absolutely spotless. You must take such evidence as the nature of the thing will afford, or you may have the king destroyed, and our religion too. For Jesuits are too subtle to subject themselves to too plain a proof, such as they cannot evade by equivocation, or a flat denial.

There is also a letter produced, which, speaking of the consult that was to be the 24th of April, proves that there was a conspiracy among them: And, although it is not evidence to convict any one man of them, yet it is evidence upon Mr. Oates's testimony to prove the general design. It is from one Petre to one of the confederates, and taken amongst Harcourt's papers, after Mr. Oates had given in his testimony; and therein it is mentioned, That the superior had taken care, that there should be a meeting the 24th of April, the day after Saint George's day, which is the very time Oates speaks of; and that they were not to come to town too soon, that the design might not be discovered. I would fain know what the signification of that clause may be. And then it goes farther, That it was to be kept secret, as the nature of the thing doth require; which shews plainly there was such a transaction on foot. But the reason I urge it for is, to shew you that it is a concurrent evidence with Mr. Oates, who had never seen this paper till three or four days after this information was given in,

wherein he swears the time when this agitation was to be, and when they came to look upon the paper, it agrees with the time precisely. Now they do not write in this letter, that they intend to kill the king, but they write to caution them to keep the design undiscovered, and by that you may guess what they mean.

What is said to all this by the prisoners, but denial? Ireland cannot deny but that he knew Mr. Oates, and had been in his company sometimes; five times, by circumstances, Mr. Oates hath proved, so that they were acquaintance; and it appears plainly, there was a familiarity between them. Ireland objects, that Bedlow charges him in August, when he was out of town all that time, and that therefore the testimony of one of the witnesses cannot be true. And, to prove this, he calls his mother, his sister, and sir John Southcot's man, and Mr. Gifford. His mother and sister say expressly, that he went out of town the 3rd of August, and the servant says, that he saw him at Saint Albans the 5th of August, and continued in his company to the 16th (so that as to that, there is a testimony both against Mr. Bedlow and against Mr. Oates); and Gifford comes and says, he saw him at the latter end of August and beginning of September at Wolverhampton; whereas Mr. Oates hath sworn, he saw him the 12th of August, and the 1st or 2nd of September, and tells it by a particular circumstance, wherein, I must tell you, it is impossible that both sides should be true. But if it should be a mistake only in point of time, it destroys not the evidence, unless you think it necessary to the substance of the thing. If you charge one in the month of August to have done such a fact, if he deny that he was in that place at that time, and proves it by witnesses, it may go to invalidate the credibility of a man's testimony, but it does not invalidate the truth of the thing itself, which may be true in substance, though the circumstance of time differ. And the question is, whether the thing be true?

Against this, the counsel of the king have three that swear it positively and expressly, That Ireland was here, here is a young maid that knew him very well, and was acquainted with him, and with his breaking up of letters; and she is one that was Grove's servant: She comes and tells you directly, That about that time, which, by computation, was about the 12th of August, she saw him go into his own house; which cannot be true, if that be true which is said on the other side; and she does swear it upon better circumstances than if she had barely pitched upon a day; for she must have satisfied me well, for what reason she could remember the day so positively, ere I should have believed her: But she does it, remembering her going to my lord Arlington's service, which was a week after the king went to Windsor; which is sworn to be about the 13th of August, and a week before her going it was that she saw Ireland at his own door. What arts they have of evading this, I know

not; for as they have turned their learning into subtilty, so they have their integrity too. The study of politics is their business and art, which they make use of upon all occasions; and I find them learned chiefly in cunning, and very subtle in their evasions. So that you see, without great difficulty, a man cannot have from them a plain answer to a plain question. But the fact against them is here expressly sworn by two witnesses; if you have any reason to disbelieve them, I must leave that to you. Sir D. Ashburnham, who is produced to discredit Mr. Oates, says, that when he was a child, there was little or no credit to be given to him, and if the matter had depended solely upon his testimony, those irregularities of his, when a boy, would have staggered his belief. But when the matter is so accompanied with so many other circumstances, which are material things, and cannot be evaded or denied, it is almost impossible for any man, either to make such a story, or not to believe it when it is told. I know not whether they can frame such a one; I am sure never a Protestant ever did, and, I believe, never would invent such a one to take away their lives: Therefore it is left to your consideration what is sworn: The circumstances of swearing it by two witnesses, and what reasons you have to disbelieve them.

It is most plain the Plot is discovered, and that by these men; and that it is a Plot, and a villainous one, nothing is plainer. No man of common understanding, but must see there was a conspiracy to bring in Popery, and to destroy the Protestant religion; and we know their doctrines and practices too well, to believe they will stick at any thing that may effect those ends. They must excuse me, if I be plain with them; I would not asperse a profession of men, as the priests are, with hard words, if they were not very true, and if at this time it were not very necessary. If they had not murdered kings, I would not say they would have done ours. But when it hath been their practice so to do; when they have debauched men's understandings, overturned all morals, and destroyed all divinity, what shall I say of them? when their humility is such, that they tread upon the necks of emperors; their charity such, as to kill princes; and their vow of poverty such, as to covet kingdoms, what shall I judge of them? when they have licences to lie, and indulgencies for falsehoods; nay, when they can make him a saint that dies in one, and then pray to him; as the carpenter first makes an image, and after worships it; and can then think to bring in that wooden religion of theirs amongst us in this nation, what shall I think of them? what shall I say to them? what shall I do with them?

If there can be a dispensation for the taking of any oath (and divers instances may be given of it, that their church does license them to do so) it is a cheat upon men's souls, it perverts and breaks off all conversation amongst mankind; for how can we deal or converse in the world, when there is no sin, but can be in-

dulged; no offence so big, but they can pardon it, and some of the blackest be accounted meritorious? what is there left for mankind to lean upon, if a sacrament will not bind them, unless it be to conceal their wickedness? If they shall take tests and sacraments, and all this under colour of religion be avoided, and signify nothing, what is become of all converse? How can we think obligations and promises between man and man should hold, if a covenant between God and man will not?

We have no such principles nor doctrines in our Church, we thank God. To use any prevarication in declaring of the truth, is abominable to natural reason, much more to true religion; and it is a strange Church that will allow a man to be a knave. It is possible some of that communion may be saved, but they can never hope to be so in such a course as this. I know they will say, That these are not their principles, nor these their practices, but they preach otherwise, they print otherwise, and their councils do determine otherwise.

Some hold, that the Pope in council is infallible; and ask any Popish Jesuit of them all, and he will say the Pope is infallible himself, *in cathedra*, or he is no right Jesuit. And if so, whatever they command is to be justified by their authority; so that if they give a dispensation to kill a king, that king is well killed. This is a religion that quite unbings all piety, all morality, and all conversation, and to be abominated by all mankind.

They have some parts of the foundation, it is true; but they are adulterated, and mixed with horrid principles, and impious practices. They eat their God, they kill their king, and saint the murderer. They indulge all sorts of sins, and no human bonds can hold them.

They must pardon me if I seem sharp, for a Papist in England is not to be treated as a Protestant ought to be in Spain: And if ye ask me why? I will give you this reason; We have no such principles nor practices as they have. If I were in Spain, I should think myself a very ill Christian, should I offer to disturb the government of the place where I lived, that I may bring in my religion there. What have I to do to undermine the tranquillity and peace of a kingdom, because all that dwell in it are not of my particular persuasion?

They do not do so here, there is nothing can quench the thirst of a priest and a Jesuit, not the blood of men, not of any, if he can but propagate his religion, which in truth is but his interest.

They have not the principles that we have, therefore they are not to have that common credence, which our principles and practices call for.

They are not to wonder, if they keep no faith, that they have none from others; and let them say what they will, that they do not own any such things as we charge upon them, and are like to go hard with them; for we can shew them out of their own writings and councils, that they do justify the power of the Pope in

excommunicating kings, in deposing them for heresy, and absolving their subjects from their allegiance. And the claim of authority both of Pope and council, is the surest foundation they build upon.

I have said so much the more in this matter, because their actions are so very plain and open, and yet so pernicious; and it is a very great providence, that we, and our religion, are delivered from blood and oppression. I believe our religion would have stood, notwithstanding their attempts, and I would have them to know we are not afraid of them; nay, I think we should have maintained it, by destroying of them. We should have been all in blood, it is true, but the greatest effusion would have been on their side; and without it, how did they hope it should have been done? There are honest gentlemen, I believe hundreds, of that communion, who could not be openly won upon to engage in such a design. They will not tell them that the king shall be killed; but they will insinuate unto them, that he is but one man, and if he should die, it were fit they were in readiness to promote the Catholic religion; and when it comes to that, they know what to do. When they have got them to give money to provide arms, and be in readiness on their specious pretence, then the Jesuits will quickly find them work. One blow shall put them to exercise their arms; and when they have killed the king, the Catholic cause must be maintained.

But they have done themselves the mischief, and have brought misery upon their whole party, whom they have ensnared into the design, upon other pretences than what was really at the bottom. A Popish priest is a certain seducer, and nothing satisfies him; not the blood of kings, if it stands in the way of his ambition. And I hope they have not only undeceived some Protestants, whose charity might incline them to think them not so bad as they are; but I believe they have shaken their religion in their own party here, who will be ashamed in time that such actions should be put upon the score of religion.

I return now to the fact, which is proved by two witnesses, and by the concurrent evidence of the letter and the maid; and the matter is as plain and notorious as can be, That there was an intention of bringing in popery by a cruel and bloody way; for I believe they could never have prayed us into their religion. I leave it therefore to you to consider, whether you have not as much evidence from these two men, as can be expected in a case of this nature; and whether Mr. Oates be not rather justified by the testimony offered against him, than discredited. Let prudence and conscience direct your verdict, and you will be too hard for their art and cunning.

Gentlemen, If you think you shall be long, we will adjourn the Court till the afternoon, and take your verdict then.

Jury. No, my lord, we shall not be long.

Then an Officer was sworn to keep the Jury

safe, according to law, and they withdrew to consider of their Verdict.

After a very short recess, the jury returned, and the Clerk of the crown spake to them thus:

Cl. of Cr. Gentlemen, answer to your names. Sir William Roberts.

Sir W. Roberts. Here. And so of the rest.

Cl. of Cr. Gentlemen, Are you all agreed in your verdict?

Omnes. Yes.

Cl. of Cr. Who shall say for you?

Omnes. The foreman.

Cl. of Cr. Set William Ireland to the bar. William Ireland, hold up thy hand. Look upon the prisoner. How say you, is he Guilty of the high-treason whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods and chattels, lands or tenements?

Foreman. None to our knowledge.

Cl. of Cr. Set Thomas Pickering to the bar. Tho. Pickering, hold up thy hand. Look upon the prisoner. How say you, is he Guilty of the same high-treason, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods or chattels, lands or tenements?

Foreman. None to our knowledge.

Cl. of Cr. Set John Grove to the bar. John Grove, hold up thy hand. Look upon the prisoner. How say you, is he Guilty of the same high-treason, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods or chattels, lands or tenements?

Foreman. None to our knowledge.

Cl. of Cr. Hearken to your verdict, as the Court hath recorded it. You say that William Ireland is Guilty of the high-treason whereof he stands indicted. You say that Thomas Pickering is Guilty of the same high-treason. You say that John Grove is Guilty of the same high-treason. And for them you have found Guilty, you say, That they, nor any of them, had any goods or chattels, lands or tenements, at the time of the high-treason committed, or at any time since, to your knowledge. And so you say all.

Omnes. Yes.

L. C. J. You have done, gentlemen, like very good subjects, and very good Christians, that is to say, like very good Protestants: and now much good may their thirty thousand Masses do them.

Then the Court adjourned by Proclamation till four in the afternoon.

In the afternoon the same day.

About five of the clock Mr. Recorder and a sufficient number of the justices returned into the Court, the judges being departed home; and Proclamation was made for attendance, as in the morning.

Then the Clerk of the Crown called for the

prisoners convicted of high-treason, and spoke to each of them thus:

Cl. of Cr. Set William Ireland to the bar. William Ireland, hold up thy hand. Thou standest convicted of high-treason; what canst thou say for thyself, why the Court should not give thee judgment to die according to law?

Ireland. My lord, I represented all along from the beginning, that we had not time to call in our witnesses to justify our innocence.

Recorder. If you have any thing to say in stay of judgment, you have all free liberty to say it.

Ireland. We had no time allowed us to bring in our witnesses, so that we could have none, but only those that came in by chance; and those things they have declared, though true, were not believed.

Recorder. These things, Mr. Ireland, you did not object before the jury gave their verdict; now they have given their verdict, and found you Guilty, if you have any thing to say to the Court why they should not proceed to judgment according to that verdict, you may speak it; but for these things it is too late.

Ireland. My lord, I only have this to say, I desire more time to be heard, again, and to call in my witnesses.

Recorder. Call the Executioner to do his office.

Ireland. There are testimonies, my lord, that I could produce of my loyalty, and my relations fidelity to the king.

Recorder. I believe, Mr. Ireland, it will be a shame to all your relations that have been loyal to the king, that you should be privy to the murder of that good king whom your relations so well served; and therefore if that be all that you have to say, it will signify nothing.

The Executioner not appearing, the sheriff of Middlesex was called to come into Court, and give attendance, upon pain of 40*l.* But the Executioner coming in, was, with a reproof from the Recorder for his negligence, commanded to tie him up, which he did.

Cl. of Cr. Set Thomas Pickering to the bar. Thomas Pickering, hold up thy hand. Thou art in the same case with the prisoner last before thee; what canst thou say for thyself, why the Court should not give thee judgment to die according to law?

Recorder. What does he say for himself?

Capt. Richardson. He has nothing to say.

Recorder. Then tie him up.

Cl. of Cr. Set John Grove to the bar. John Grove, hold up thy hand. Thou art in the same case with the prisoner last before thee, what canst thou say for thyself, why the Court should not give thee judgment to die according to law?

Grove. I am as innocent as the child unborn.

Cl. of Cr. Tie him up—Which was done.

Cl. of Cr. Criers on both sides, make Proclamations.

Criers. O yes! All manner of persons are commanded to keep silence whilst judgment is

giving, upon pain of imprisonment: peace about the Court.

Recorder. Where is the keeper? Shew me the prisoners, William Ireland, Thomas Pickering, and John Grove.

Capt. Richardson. Those are the three.

Recorder. You, the prisoners at the bar, you have been arraigned for a very great offence, the greatest that can be committed against any authority upon earth, for high-treason against your king, with all the aggravations that possibly can attend so great a crime as that is; for you did not only strike at the life of the best of kings, but you intended the subversion of the best of religions. Whatever you may apprehend, yet all men that will lay their hopes of salvation upon any thing that is fit for a man to lay his hopes upon, which is upon the merits of a crucified Saviour, and not upon your Masses, tricks or trumperies, do abhor the thoughts of promoting their religion by massacring kings, and murdering their subjects. And though we whom you call Heretics, abhor to own any such religion; yet we are not afraid to tell you, and all others who are ensnared into your principles, we will maintain the religion and the government as it is established, with our lives and fortunes. And it is fit that it should be known, that we who live under the government of so mild and pious a prince, and in a country where so good, so moderate a religion is established by law, will not be affrighted by all your murders, conspiracies and designs, from declaring, that they who dare kill kings, and massacre their subjects, are the highest violators, not only of the laws of the land, but of that great law which all good Christians and Protestants think themselves obliged to pay great reverence and obedience to, I mean the law of God Almighty himself.

Thus I speak to you, gentlemen, not vauntingly, it is against my nature to insult upon persons in your sad condition; God forgive you for what you have done, and I do heartily beg it, though you do not desire I should; for, poor men, you may believe that your interest in the world to come is secured to you by your Masses, but do not well consider that vast eternity you must ere long enter into, and that great tribunal you must appear before, where his Masses (speaking to Pickering) will not signify so many groats to him, no not one farthing. And I must say it for the sake of those silly people whom you have imposed upon with such fallacies, that the Masses can no more save thee from a future damnation, than they do from a present condemnation.

I do not speak this to you, as intending thereby to inveigh against all persons that profess the Romish religion; for there are many that are of that persuasion, that do abhor those base principles of murdering kings and subverting governments. There are many honest gentlemen in England, I dare say, of that communion, whom none of the most impudent jesuits durst undertake to tempt into such designs;

these are only to be imposed upon silly men, not upon men of conscience and understanding. And I pray God, as was said lately by a learned gentleman whom we all know, that all Protestants may be as safe from the force of your daggers, as they are from those of your arguments; for I dare say, that you could sooner murder any man that understands the Protestant religion, than to persuade him to such villanies. And among those many things which prevailed with the honest gentlemen of the jury to convict you of this horrid crime, they could not but take notice, that you (speaking to Ireland) that do pretend to learning, did send into foreign parts that your fellow jesuits should take care publicly to preach, That the oaths of allegiance and supremacy, by which the common justice of the nation is preserved, signified nothing; which is a strong evidence of your design, not only to murder the king, but subvert the government; for surely the most probable way to do that, is to asperse those oaths by which all protestant subjects, those whom you call heretics, lie under an obligation of obedience to their prince. And I think it not unfit to tell you, that you had a great favour showed to you to be tried only for the matters contained in this Indictment; for you that are priests must know, that there is a law in the land, that would have hanged you for your very residence here; for if any subject born in England shall take orders from the see of Rome, and afterwards come into England, and remain there 40 days, such, for that offence alone, are made traitors by act of parliament. But you are so far from being under any awe of that law or submission to it, that you dare not only come to live here in despite thereof, but endeavour what you can to overthrow both it, and the government itself. You dare conspire to murder the king; nay not only so, but you dare make your consults thereof public. You dare write your names to those consults. You dare solicit all your party to do the like, and make all the ties of religion and conscience (that to considering Christians are obligations to piety and charity) as engagements either to act your villanies, or to conceal them. We think no power can dispense with us, whom you call heretics, to falsify our oaths, much less to break our covenant with God in the Holy Sacrament. But you, instead of making that a tie and obligation to engage you to the remembrance of our Saviour, make it a snare and a gin to oblige your proselytes to the assassinating kings, and murdering their subjects. I am sorry with all my soul, that men who have had their education here, and the benefit of the good examples of others, should not only be led into such mischievous principles themselves, but to be of that confidence in their persuasion, as to dare to debauch others also. I am sorry also to hear a layman should with so much malice declare, That a bullet, if round and smooth, was not safe enough for him to execute his villanies by; but he must be sure, not only to set his poisonous invention on work

about it, but he must add thereto his poisonous teeth; for fear if the bullet was smooth, it might light in some part where the wound might be cured. But such is the height of some mens malice, that they will put all the venom and malice they can into their actions. I am sure this was so horrid a design, that nothing but a conclave of devils in hell, or a college of such jesuits as yours on earth, could have thought upon.

This I remember to you for the sake of them that are to live, and for the charity I have for you who are to die: For the sake of them that are to live; for I hope when they hear, that men of your persuasion dare commit those outrageous crimes, and justify them by a principle of religion, they will not easily be seduced into your opinion: And out of charity to you that are to die, to persuade you to hearty repentance; for otherwise, I must tell you, thy 1,500*l.* (speaking to Grove) nor thy 30,000 Masses (speaking to Pickering) will avail but little. And I thought fit to say this also, that it may be known that you have had the full benefit of the laws established in England, and those the best of laws; for such is not the law of other nations: For if any protestant in any place where the Romish religion is profest, had been but thought guilty of such crimes, he had never come to the formality and justice of an arraignment, and to be tried by his peers, permitted to make his defence, and hear what could be said against him; but he had been hanged immediately, or perhaps suffered a worse death. But you are not only beholden to the happy constitution of our laws, but to the more happy constitution of our religion. For such are the admirable documents of that religion we in England profess, that we dare not requite massacre for massacre, blood for blood. We disown and abhor all stabbing; and we are so far from reckoning that he shall be a saint in Heaven for assassinating a prince, and be prayed to in another world, that the Protestant is required to believe, that such as begin with murder, must end with damnation, if our blessed Lord and Saviour do not interpose; nothing that man can do, Papist or Protestant, can save any man in such a case. We dare not say that our religion will permit us to murder dissenters, much less to assassinate our king.

And having thus said, let me once more as a Christian, in the name of the great God of Heaven, beg of you for your own souls sake, be not satisfied or over-persuaded with any doctrine that you have preached to others, or imbibed from others; but believe, that no one can contrive the death of the king, or the overthrow of the government, but the great God of Heaven and earth will have an account of it. And all pardons, absolutions, and the dispensations that you who are priests can give to your lay-brother, or that any of your superiors may give to you, will not serve the turn.

I know not, but as I said, you may think I speak this to insult, I take the great God of

Heaven to witness, that I speak it with charity to your souls, and with great sorrow and grief in my own heart, to see men that might have made themselves happy, draw upon themselves so great a ruin. But since you have been so fairly heard, so fairly tried and convicted, there is but little more to be said; for I must tell you, because it may not be thought that you had not free liberty to make your full defence, though that gentleman (speaking to Ireland) seemed to be surprized, he had a kind sister, that took care to bring his witnesses; I am so far from blaming her for it, that I do commend her, it was the effect of her good nature, and deserves commendation; but speak to this purpose, to shew that there was no surprize upon him, nor his life taken away by any such thing; for he had a greater favour shewed to him than is usually shewn to such offenders.

And having thus said to you myself, we do also require him whose duty it is to attend in such cases, nay, I do command him in the name of the court, that he attend upon you to give you all the comfortable assistance that he can for the advantage of your future state: And not only so, but we will certainly take care, that if you will have any others come to you they shall. I would not be mistaken, I do not mean any of your priests and Jesuits; but if you will have the assistance of any Protestant divines, they shall not be denied you. And I hope God Almighty will please to give you pardon in another world, though you have offended beyond hopes of any in this. I once more assure you, all I have said is in perfect charity. I pray God forgive you for what you have done. And so there remains now only for me to pronounce that sentence which by the law of the land the court is required to do against persons convicted of that offence which you are convicted of.

This court doth therefore award, "That you, the prisoners at the bar, be conveyed from hence to the place from whence you came, and from thence that you be drawn to the place of execution upon hurdles, that there you be severally hanged by the neck, that you be cut down alive, that your privy members be cut off, and your bowels taken out, and burnt in your view, that your heads be severed from your bodies, that your bodies be divided into quarters, and those quarters be disposed of at the king's pleasure: And the God of infinite mercy be merciful to your souls."

Then the prisoners were conveyed back to the Gaol by the keeper of the Gaol, according to custom; and the commission was called over, and the prisoners taken order for according to law. And the court adjourned by proclamation thus:

Cl. of Cr. Crier, make proclamation.

Crier. O Yes, O Yes, O Yes! All manner of persons that have any thing more to do at this general sessions of the peace holden for the city of London, may depart hence for this time, and give their attendance at the Guild-

hall, London, on Friday the 10th day of January next, at seven of the clock in the morning. And all manner of persons at this sessions of Oyer and Terminer, and gaol-delivery of Newgate, holden for the city of London and county of Middlesex, may depart hence for this time, and give their attendance here again on Wednesday, the 15th day of January, at seven of the clock in the morning. God save the king.

And then the court broke up.

On Friday the 24th of January following, William Ireland and John Grove were drawn from Newgate on a burdle to Tyburn, where they were executed according to their sentence.

Mr. Ireland made this following Speech:

"We come hither, as on the last theatre of the world, and do therefore conceive we are obliged to speak. First then, we do confess, that we pardon all and every one whatsoever, that have any interest, concern, or hand in our death. Secondly, we do publicly profess and acknowledge, that we are here obliged, if we were guilty ourselves of any treason, to declare it; and that, if we knew any person faulty therein (although he were our father) we would detect and discover him; and as for ourselves, we would beg a thousand and a thousand pardons, both of God and man: But seeing we cannot be believed, we must beg leave to commit ourselves to the mercy of Almighty God, and hope to find pardon of him through Christ. As for my own part, having been twenty years in the Low Countries, and then coming over in June was twelvemonth, I had returned again, had not I been hindered by a fit of sickness. On the 3d of August last I took a journey into Staffordshire, and did not come back to town before the 14th of September, as many can witness: for a hundred and more saw me in Staffordshire; therefore, how I should in this time be acting here treasonable stratagems, I do not well know or understand."

Here *Mr. Sheriff* advertised the prisoner, he would do well to make better use of his time, than to spend it in such-like expressions, for nobody would believe him; not that they thought much of their time, for they would stay; but such kind of words did arraign the proceedings of the court, by which they were tried.

Wherefore *Mr. Ireland* concluded, and said; "I do here beg of God Almighty to shower down a thousand and a thousand blessings upon his majesty, on her sacred majesty, on the duke of York, and all the royal family, and also on the whole kingdom. As for those catholics that are here, we desire their prayers for a happy passage into a better world, and that he would be merciful to all christian souls. And as for all our enemies, we earnestly desire that God would pardon them again and again, for we pardon them heartily, from the bottom of our hearts; and so I beseech all good people to pray for us and with us."

Then Mr. Groves said ;

"We are innocent ; we lose our lives wrongfully ; we pray to God to forgive them that are the causers of it."

The execution of Thomas Pickering was respited for so long a time, that it occasioned an Address of the House of Commons, April 27, 1679, "That his majesty would be pleased to order the execution of one Pickering a prisoner in Newgate, and of divers priests and Jesuits, who had been condemned by the judges at the Old Bailey and in the several circuits, but did remain as yet unexecuted, to the great emboldening of such offenders, in case they should escape without due punishment." To which the king returned this answer : "Gentlemen, I have always been tender in matters of blood, which my subjects have no reason to take exceptions at ; But this

is a matter of great weight, I shall therefore consider of it, and return you an answer."

May 25, the king sent a message to the House, by Lord Russel, to let them know, that he would comply with their request concerning Pickering, and that the law should pass upon him.

He was accordingly executed in pursuance of his sentence. Arriving at the place of execution, he appeared to the spectators (after a manner very unusual to persons in his condition) with a countenance not only calm, sweet, and serene, but even cheerful, smiling, and pleased ; solemnly protesting upon his salvation, he was innocent in thought, word, and deed, of all that was laid to his charge. Then heartily praying for his accusers and enemies, he said to the hangman 'Friend, do thy office ;' and soon after left the world.

246. The Trial of the Lord CORNWALLIS, before the Lords* at Westminster, for the Murder of Robert Clerk : 30 CHARLES II. A. D. 1678.†

AFTER my Lord High Steward (lord Finch afterwards earl of Nottingham) was ascended to the High Chair of State, and sat down therein, the commission was delivered by the clerk

* This was a Trial in the Court of the Lord High Steward, as to which, and the distinction between it and the High Court of Parliament, or as Mr. Justice Foster stiles it, "The Court of our Lord the King in Parliament," see the Case of Lord Delamere, A. D. 1636, *infra* ; and of Earl Ferrers, A. D. 1760, *infra* ; and Foster's Crown Law, 138. See also 4 Hattell's Precedents, 197. 277, and the Appendix, No. 3.

† This Case is thus reported in Jones's Rep. 54 : "The lord C. having been indicted for the murder of Robert Clerk mentioned in the next preceding : The king for his trial constituted Heneage lord Finch, then High Chancellor of England, to be Lord High Steward, *hac vice tantum*. The trial was upon the 30th day of June after Trinity Term, in the 28th year of the king. The proceedings were such as are described by lord Coke in his Book of Pleas of the Crown, chap. Treason, of the Trial of Peers ; as to the summons of the peers triers, the Certiorari to the Lord Chief Justice for the indictment, and precept to the constable of the Tower of London, and other formalities there mentioned. The steward was attended from his house on the day of the trial quite to Westminster, by the judges in their coaches. Sir Edward Walker, then garter king at arms, going before him in his coat with the serjeants at arms : when he was at the great door of the hall he tarried till the judges were alighted out of their coaches, and then the chief justices first, and the rest according to their seniority

of the crown in the Chancery, on his knees, to my lord, who delivered it to sir Thomas Fanshaw, clerk of the crown in the King's-Bench office, and he received it kneeling. Then pro-

passed by him, and advanced into the court, which was a large tribunal erected for this purpose (the whole structure extended almost from the stairs leading to the courts of King's-bench and Chancery to the court of Common Pleas, but the court itself was not so large by much.) The cloth of state was placed aloft in the middle of both sides of it, but a little behind were built two small boxes ; on the right were the king, the queen, the duke and duchess ; the others were filled with persons of honour. The peers triers were seated on both sides the chair of state, but at the distance of about five paces from it, and a step lower on benches covered with green cloth, with which the whole court was likewise covered. At the peers feet sat the judges, some on one side and some on the other, their seats being of the same height with the floor of the court. In the middle was a place cut for the clerk of the crown of the King's-bench, and for his deputy, in the lower part. The king's council, viz. his senior serjeant, attorney and solicitor were placed. The prisoner was at the bar behind them, but raised about six feet, and directly over against the chair of state.

"After the court was thus disposed, Chernoke, serjeant at arms, made proclamation three times, and command was made that all persons, except the lords the triers, and other peers of the realm, and the privy counsellors and the judges, should be uncovered. Then the clerk of the crown read the indictment, and arraigned the prisoner, who pleaded Not

clamation was made by the Serjeant at Arms, who was Crier for the day.

Guilty, and put himself upon his peers, who were thirty-six, the greatest part of them of the most noble, of the greatest estate, and the wisest of the realm. Before any evidence was given, the Lord Steward made an elegant speech to the triers, and exhorted the prisoner to be of good courage, and without fear, and to summon all the faculties of his soul to his assistance. Then the evidence was first opened by the solicitor general, seconded by the attorney, and concluded by serjeant Maynard, the prisoner all the while behaving himself with humility, modesty and prudence. After the evidence was concluded, the lords went to consider and consult together, in the Court of Wards, as I believe, and during their absence biscuit and wine were distributed in the court. After two hours or more, the lords returned, and the Lord Treasurer, in the name of his fellows, prayed the advice of the Lord Steward and the Judges on this point, Whether a person's presence at and abetting of a manslaughter, committed by another, made him guilty, as it was in the case of murder. To which the Judges speaking, viz. those of the same side for themselves, and not altogether, all agreed that the law was the same in case of manslaughter as of murder. Then the lords went back, and in half an hour returned to give their verdict. And being seated in their places the Lord Steward spoke first to the youngest lord in this manner, My lord A. is my lord C. Guilty or not? and so to every one, ascending from the youngest to the first, and each answered in his order, Guilty or Not Guilty upon my honour. And six of them pronounced him Guilty of Manslaughter, and the rest Not Guilty. This being recorded, the Lord Steward broke the white rod (which was held before him during the whole trial) over his head, and then the court broke up.

"B. G. having been indicted for the same murder of Robert Clerk, with the said lord C. surrendered himself in Michaelmas-Term, 28 C. 2. and being brought to the King's-bench bar the same term, and arraigned, pleaded the king's pardon, which was read, he being on his knees. Then Twisden, justice, observed, that the pardon did not recite the indictment, and that he remembered it had been questioned, whether a pardon after indictment, without mentioning it, should be allowed. But he thought the pardon in this case was well enough, for it had these words, 'sive' (the prisoner) 'fuit indictat' sive non.' Note this pardon was *per verba* of 'felonicam interfectionem' 'quamcunq;' with a 'Non obstante the statute' 'of R. 2.' &c. and was allowed by all the court, and the prisoner, after grave advice given him by the Lord Chief Justice and Twisden, discharged, and afterwards according to the custom he presented gloves to all the Judges."

VOL. VII,

Serjeant. O yes, O yes, O yes! My Lord High Steward of England strictly chargeth and commandeth all manner of persons here present, upon pain of imprisonment, to keep silence, and give ear to his majesty's commission, To my Lord High Steward of England, to his grace directed.

The clerk of the crown, with his face to my Lord High Steward, reads it thus:

Clerk of the Crown. Charles Rex Carolus Secundus, &c.

All which time my lord and the peers stood up bare.

Serjeant. God save the king.

Cl. Cr. Make proclamation.

Serjeant. O yes! The king at arms, and the usher of the black rod, on their knees, deliver the white staff to my lord, who re-delivered it to the usher of the black rod, who held it up all the time before him.

Cl. Cr. Make proclamation.

Serjeant. O yes! My Lord High Steward of England strictly chargeth and commandeth all justices and commissioners, and all and every person and persons to whom any writ or precept hath been directed for the certifying of any indictment, or of any other record before my Lord High Steward of England, to certify and bring the same immediately, according to the tenor of the said writs and precepts unto them, or any of them directed, on pain and peril as shall fall thereon.

The lord chief justice of the King's-Bench returned his Certiorari, and the record of the Indictment by the grand jury of Middlesex, which was read by the clerk of the crown in *hac verba*.

Cl. Cr. Virtute, &c.

L. H. Stew. Call the constable of the Tower to return his precept and bring forth his prisoner.

Cl. Cr. Make proclamation.

Serjeant. O yes! Constable of the Tower of London, return the precept to thee directed, and bring forth the prisoner Charles lord Cornwallis, on pain and peril as will fall thereon.

The lord lieutenant of the Tower brought in the prisoner, on his left-hand, with the ax before him, borne by the deputy-lieutenant, which he held with the edge from him, and returned his precept in *hac verba*.

Cl. Cr. Virtute, &c.

L. H. Stew. Call the Serjeant at Arms to return his precept.

Cl. Cr. Make proclamation.

Serjeant. O yes! Roger Harfnet, esq. Serjeant at Arms to our sovereign lord the king, return the precept to thee directed, with the names of all the lords and noblemen of this realm, peers of Charles lord Cornwallis, by thee summoned, to be here this day, on pain and peril as will fall thereon.

He delivered his precept returned with a schedule annexed thus:

Cl. Cr. Virtute, &c. Make proclamation.

Serjeant. O yes! All marquisses, earls, viscounts, and barons of this realm of England,

L

peers of Charles lord Cornwallis, which by commandment of the Lord High Steward of England are summoned to appear this day, and to be present in Court, answer to your names, as you are called, every one upon pain and peril as will fall thereon.

Then the Pannel was called over; the number of peers summoned were 35, in order as followeth:

Thomas Earl of Danby, Lord High Treasurer of England, &c.

All that appeared, answered to the call, standing up bare.

Then my Lord High Steward made a speech to the prisoner at the bar thus:

Lord High Steward. "My lord Cornwallis, The violation of the king's peace, in the chief sanctuary of it, his own royal palace,* and in so high a manner as by the death of one of his subjects, is a matter that must be accounted for. And that it may be so, it hath pleased the king to command this high and honourable court to assemble, in order to a strict and impartial enquiry.

"The wisdom of the law hath therefore styled it the king's peace, because it is his authority that commands it, it is his justice that secures it, it is he on whom men do rely for the safety of their liberties and their lives; in him they trust that a severe account shall be taken of all the violences and injuries that are offered to them, and they that trust in the king can never be deceived.

"It is your lordship's great unhappiness at this time to stand prisoner at the bar, under the weight of no less a charge than an Indictment of murder; and it is not to be wondered at, if so great a misfortune as this be attended with some kind of confusion of face; when a man sees himself become a spectacle of misery in so great a presence, and before so noble and so illustrious an assembly. But be not yet dismayed, my lord, for all this; let not the fears and terrors of justice so amaze and surprize you, as to betray those succours that your reason would afford you, or to disarm you of those helps which good discretion may administer, and which are now extremely necessary.

"It is indeed a dreadful thing to fall into the hands of justice, where the law is the rule, and a severe and inflexible measure both of life and death. But yet it ought to be some comfort to your lordship, that you are now to be tried by my lords your peers; and that now you see the scales of justice are held by such noble hands, you may be confident they will put into them all the grains of allowance, either justice or honour will bear.

"Hearken therefore to your indictment with quietness and attention; observe what the wit-

* As to striking in the palace, &c. See the Cases of sir Edmund Knevet, *ante*, vol. 1, p. 443, of the earl of Devonshire, A. D. 1687; and of lord Thanet and Mr. Ferguson, A. D. 1797, *post*. See also East's Pleas of the Crown, c. 8, sect. 3.

nesses say against you without interruption; and reserve what you have to say for yourself, till it shall come to your turn to make your defence, of which I shall be sure to give you notice; and when the time comes, assure yourself you shall be heard, not only with patience, but with candour too.

"And then what judgment soever my lords will give you, yourself will (and all the world) be forced to acknowledge the justice and equity of their judgment, and the righteousness of all their lordships proceedings."

Read the Indictment.

Cl. Cr. Charles Lord Cornwallis, Thou standest indicted in the County of Middlesex, by the name of, &c. How sayest thou, Charles lord Cornwallis, Art thou guilty of this felony and murder whereof thou standest indicted, or Not guilty?

Lord Corn. Not guilty.

Cl. Cr. How wilt thou be tried?

Ld. Corn. By God and my peers.

Then my Lord High Steward addressed himself to the Lords thus:

L. H. Stew. "My Lords, Your lordships have here a member before you of your noble body, exposed to the shame of a public arraignment, and (which to a man of honour is much less) to the hazard both of his life and estate. All that he hath, and ever hopes to have, his wealth, his fame, his posterity: all that is valuable to him in this world, entirely depends on your lordships judicature, who are now his peers, and on whom he doth freely put himself.

"My Lords, the privilege of this kind of trial and judicature, is a part of the true greatness of the English nobility: It is an eminent and an illustrious privilege. It is a solid point of honour and dignity. It is a privilege that no neighbour nation ever had, and a privilege this nation never was without.

"It is not a privilege created by the great Charter, but confessed and acknowledged by it. They look but a little way that find this in the steps of the Norman conquest; for it is to be found even in the footsteps of the Saxon Monarchy, when Godwin earl of Kent was tried by earls and barons. And it is no improbable conjecture of theirs, who do think the wisdom of this Constitution was taken from that law amongst the Romans, whereby it was made unlawful for any man to sit upon a senator, that was not himself of the same order; a privilege, that (as learned civilians tell us) continued with them during the reign of many of the Roman emperors. But, my Lords, as this is a privilege as ancient as Monarchy, so we have found by many old experiences, that it cannot be taken away without the dissolution of that government: Therefore this is one of those many ties by which the interest of nobility, as well as their duty, have obliged them to the service of the king.

"In the exercise of this privilege at this time; I know your lordships will weigh the

fact with all the circumstances, whereby it is to receive its true and its proper doom. Your lordships are too just to let pity make an abatement for the crime, and too wise to let rhetoric make any improvement of it: This only will be necessary to be observed by all your lordships, that the fouler the crime is, the clearer and the plainer ought the proof of it to be. There is no other good reason can be given,* why the law refuseth to allow the prisoner at the bar counsel in matter of fact, when his life is concerned, but only this, because the evidence by which he is condemned ought to be so very evident and so plain, that all the counsel in the world should not be able to answer upon it: Upon this ground it is, that the law hath trusted your lordships with the trial of your fellow peers; no trust can be more nobly lodged, nor no judicature had ever more true submission made to it: therefore it would be in me some want of respect to this august and noble assembly, should I go about to put your lordships in mind of your duty: no doubt you will observe the evidence carefully, weigh it diligently, and when that is done, it is impossible but the judgment you will give must be right and honourable and worthy of so wise and so great a body. Therefore I will not detain your lordships any longer from hearing the evidence that is ready to be offered unto you."

Cl. of Cr. Make Proclamation.

Serj. O yes! If any will give evidence for our sovereign lord the king, against Charles lord Cornwallis, prisoner at the bar, let him come forth and he shall be heard; for the prisoner stands at the bar upon his deliverance.

The Indictment was again read to the peers.

Serjeant Maynard. May it please your grace, my Lord High Steward of England, and this great and noble assembly; the prisoner at the bar, Charles lord Cornwallis, standeth indicted of a great crime, that he, together with Charles Gerrard and Edward Bourne, not having in his heart the fear of God, but instigated by the suggestions of the Devil, the 18th of May last, did feloniously and of his malice forethought, assault one Robert Clerk in Whitehall, and that Mr. Gerrard took him up in his arms, flung him down, and broke his neck, of which he instantly died. To this he hath pleaded Not Guilty. It lies upon us who are counsel for the king, in this case to prosecute it, and prove it to you.

Mr. Attorney General, (sir William Jones), May it please your grace, my Lord High Steward of England, and my Lords summoned for the trial of the prisoner at the bar: This noble lord stands indicted for murder; an offence, my lord, which is the first and greatest that is forbidden by the second table, and an offence of that nature, that the law of God hath by a most peremptory sentence condemned and de-

creed, that whoso sheddeth man's blood by man shall his blood be shed. Whether this noble lord be guilty of it, remains upon your lordships to try, and I shall very shortly state the matter of fact, which we shall prove, and then let the evidence be offered to you. We do not pretend, my Lords, neither doth the Indictment lay it, that this great offence was committed by the hand of my lord Cornwallis.

For I know your lordships have observed the Indictment, by which it is alledged, that the hand of Mr. Gerrard did the fact: but, my Lords, if we shall make it out that my lord Cornwallis did concur to this act, and had in himself at that time an intent to be a murderer, then it will be declared by his grace, my Lord High Steward, and my Lords the judges, that though his hand did it not, yet he is equally guilty as if it had.

Now, to make out the charge against him, our evidence will be shortly thus:

On the 18th of May last, early in the morning, between the hours of one and two, came down two gentlemen with three footmen behind them, out of the gallery at Whitehall, by the stairs that lead down to the park: I call them two gentlemen, because it was not then discovered who they were, or of what quality; but your lordships will perceive, by the course of the evidence, they were my Lord Cornwallis and Mr. Gerrard, coming down at that unseasonable hour. The first question they asked the centinel (who watched at the foot of the stairs), was the hour of the night; and from him had account that it was so much.

The prisoner and Mr. Gerrard were somewhat distempered with drink,* and made him a reply that he lyed, with great oaths accompanying it. At that time they did no more but go by him into the park, where after they had continued by the space of an hour, back they returned to the stairs, and the centinel demanding, according to his duty, who came there? they answered him in very obscene and uncivil language, and threatened they would kill the centinel, who only did his duty in enquiring who came by him at that time of night. And we shall make it appear, they were in a kind of contention among themselves who should kill him; for as I am informed, (I know if it be not proved, your lordships will observe it) one desired, Pray let me kill him; and the other desired, Pray let me kill him; and threatened no less than to run him through.

My Lords, the centinel being of good resolution, was not affrighted from his place, but kept them off; and when they saw they could not win upon the centinel that way, one of them delivered away his sword, which he held in his

* As for a drunkard, who is *voluntarius demon* [or *demens*] "he hath, as hath been said, no privilege thereby; but what hurt or ill soever he doth, his drunkenness doth aggravate it." Co. Littl. 247, &c. See too, Purchase's Case, A. D. 1710, *infra*.

* See 3 Inst. 137, 4 Blackstone's Comm. 355, 356. See too Don Pantaleon Sa's Case, *ante*, vol. 5, p. 466, and the Note.

hand not drawn, and then was pleased to come to the centinel, and desired to kiss him, and swore he would do that: but that the centinel did equally refuse; and then they did use the same threatnings again and seemed to be in a contention who should run him through. My Lords, after some time, being now come to the top of the stairs, and there staying, it happened there came to the stair-foot two youths, and these young men were, it seems, going to bed in their lodging, which was very near, and did make it their request to the centinel (one of them did) to call him up very early the next morning, because he was to go of a message out of the town. My Lord Cornwallis and Mr. Gerrard remaining on the top of the stair-case, being (as we said) in disorder (which is the strength of the king's evidence, if proved) both of them said, before they went thence they would kill some or other, which evidence will go a great way to shew the concern that noble Lord the prisoner at the bar, had in the business.

It happened as these boys were making their request to the centinel, my Lord and Mr. Gerrard took notice of it, and seemed to be concerned that they should command the king's soldiers, and bid the centinel shoot him, who told them he conceived the boy had done him no wrong in asking a civil kindness from him; they again called to shoot him, and they would bear him out; which he still refused to do, finding no reason for it: then one of the two took occasion to swear a great oath, 'he would kick his Arse to Hell;' to which the boy that asked the centinel made some reply; wherein the word 'Arse' was repeated: (Now whether they understood it as an interrogation, 'why kick my Arse to Hell?' as he intended it; or in a worse sense, 'kiss my Arse') one of the gentlemen in a rage came running down the stairs, and that boy that in truth spoke the word ran away, and the other poor innocent boy, trusting in his own innocency, remained there until the person came to him, and did on his knees (in a manner) desire not to be mistaken, he was not the person that used any ill words, and cried out, O my Lord, it was not I; indeed, my Lord it was not I; but such at that time, was the intemperance and wrath of the person, who in such a fury descended the stairs, that (whether with the blow or with the fall) the boy received his death. We find by our information of the evidence, that he who did the thing was in truth Mr. Gerrard, who is not yet taken; but whether my Lord, the prisoner at the bar, did not concur in it, and had not an intention to kill somebody, is the question left for your grace and these noble peers to decide. This is the nature of the fact; only I desire to observe, that it is true here was some distance between the place where my Lord Cornwallis stood, and the place where the boy was killed. Of what consequence that may be, I leave to your grace's and these noble lords consideration: It was the distance of the stairs; but I think, as every one knows, they are not so many, but

what is done below may be easily seen at the top.

We shall now, without detaining your lordships any longer, call the witnesses, and prove what hath been opened.

The Soldier proved the fact, as it was opened by Mr. Attorney General, except that part about both swearing they would kill one or other, which passage was heard but by one of them, and spoken but by one of the gentlemen.

They could not swear who were the persons, because of the darkness of the time.

The Boy who was the companion of him that was slain, and that used the words that caused the person to come down, swore them to be a repetition only by way of interrogation, 'why kick my Arse to Hell?'

Then Mr. Attorney desired to call my Lord Cornwallis's own two footmen, who had been indicted and acquitted at the king's-bench-bar.

L. H. Steward. My Lords the judges, is there any question, whether a person acquitted of an offence be a good witness against another charged with the same offence?

Judges. None at all: when he is acquitted he ought to be admitted.

Then the copy of the acquittal (proved by a clerk in the crown-office) was read, and then were sworn; who fixed it upon the person of Mr. Gerrard, and swore that my lord Cornwallis was all the while upon the top of the stairs, but after the fact committed, hasted away for fear of being knocked down by the soldiers: and there ended the king's evidence.

L. H. Stew. Now, my lord, is the time come for your defence. You hear what is charged on you. Pray speak what you have to say for yourself.

Then the Prisoner at the bar confessed himself to have been in the company that night, when this accident happened, which he hoped would be a warning to him to shun such disorders hereafter; but that he had no evil intention, and but one witness swore that both of them would have killed the centinel; that he was not conscious to himself, to have had a hand in, and therefore withdrew not himself it, but yielded himself to the coroner the next day, (which he proved by the coroner himself); and did therefore, in trust of his innocency, submit himself to the judgment of his grace and his peers.—Which being done,

Sir Francis Winnington, the king's Solicitor General, summed up the evidence in this manner:

May it please your grace, my Lord High Steward of England, and my noble lords the peers of the prisoner at the bar: According to the duty of my place I am to repeat the king's evidence, and state it to your grace and these noble lords, and submit it to your great judgments, how far it will go for the proof of this crime; wherein I shall observe the duty of all honest men, which is to do nothing either to wrest any thing in disadvantage of the prisoner out of the king's evidence, to go farther than it

ought, nor shall omit any thing that shall require your grace and the noble lords' justice; for we come to seek out the truth, and we question not but by this honourable trial it will be brought to light. But I beseech your favour to take notice, in the first place, what crime this noble lord stands accused of, and it is for murder; wherein our law takes notice, that murder is where a man unlawfully kills another under the king's peace, with malice forethought. Now that here is a murder committed, I dare with all humility aver. By whom? that is the question: For this Robert Clerk, the person killed, doth appear, by the course of the evidence, to have been doing his duty, attending the place his employment required; gave no offence to any whatsoever; but when the person came down and fell upon him, the poor youth cried, 'In deed, my lord, it was not I;' yet, my lords, the hands of violence seized him, and killed him. Let us then see how the evidence brings it home to the noble lord, the prisoner at the bar; wherein I must confess we have no express evidence (nay, we have evidence to the contrary) that it was not his hand that did the fact actually; for it is by two witnesses, the footmen, sworn that it was Mr. Gerrard who came down and gave the unfortunate blow: but we have that which we think, with humble submission, may reach this noble lord: For I know your grace and my lords remember, that after they had been an hour in the park, both returning, did with horrid oaths swear they would kill the centinel; there the evidence fixeth it, not upon one only, but upon both: it was at that time so dark they could not be distinguished, but by the voice: The centinel hath given you an account how he performed his duty, and in what strait he was, he had much ado to save his own life, or to prevent killing them: But when they came upon the stairs, these two boys came there in order to desire the centinel to call one of them the next morning. Then one on the stairs (no man can tell who it was) with horrid execrations, asked, Will you command the king's soldiers? Shoot him, centinel, we will bear you out. But all this while it was dusk, no distinction of persons could be made; whereupon it will fall out to come to this case, If several persons intend to kill one, and happen to kill another, whether this be not murder in them? For the urging of this, as to the matter in law, I leave to him that comes after me. The centinel swears one of them did swear he would kill one or other; who it was took up that cruel resolution, is left to you to judge: but at that time they were both together upon the top of the stairs; and my lord doth not seem to give one title of evidence, that shews any endeavours of the prisoner at the bar to prevent the other, or disprove of his actions: If he had given an account of that, he had silenced justice; but when they were all together, he not endeavouring to stop his hand, it is as much in law as if he had struck the stroke.

The other soldiers give you a particular account to the same purpose.

The two last witnesses do bring it to the person of my lord, the prisoner at the bar, and Mr. Gerrard, who, they swore, came down the stairs, and his man followed him to the bottom, and there staid at some distance till the fact was done, and they all fled.

This I take to be the matter of fact faithfully proved before your grace, and the Lords the peers; and I would not trouble your grace longer, because I would not misreport any thing, whereby I might do wrong, either to the prisoner or the king's cause; and because I know your grace and the noble lords will distinguish and find out where the truth is. I must say, it is a great comfort to all the subjects of England, that crimes of this nature are so carefully presented, that whatsoever honours and dignities our gracious sovereign doth confer on any person, it doth not exempt him from the justice of the law: it is not only a comfort to this assembly, but to the whole nation, to see the king tender of his subjects persons and lives, in that he hath caused this strict course to be taken, where the enquiry hath gone from the grand jury of the county, until the bill came to this great tribunal; where I doubt not but your grace, and these noble lords, will give a righteous and just judgment.

Serjeant *Maynard*. May it please your grace, my Lord High Steward of England, and my noble lords the Peers:

I, according to the duty of my place, come now to conclude the charge on the king's behalf. Some things are fit to be observed upon the evidence, that may produce a question for the decision of the fact, of what nature it is. That a murder is committed, is upon evidence without all question; and not only the death of a man, here is a child slain without any provocation in the world given by him to that person that did it; and that did it too, notwithstanding the deprecations of the boy, affirming his own innocency, and that with as full circumstances as a Christian almost could a thing: these come from the king's palace-walk in the park; call the centinel rogue, and when he doth his duty, swear to murder him; with oaths that a Christian would blush at, and be afraid to hear: God damme oftentimes reiterated; and he that saith that word, doth beg of God to hate him, and affirm that he doth hate God. The obscenity that they used I shall not mention again. These are the circumstances of the case; that all were guilty of much, is no doubt; but who of the murder, is the question. And I humbly conceive, it is manifest, that this noble lord was concerned in it. For it is not requisite to make a murder, that he who kills a man hath conceived a malice against him; for if I have a malice against any man, and the effect of that fall upon another, it is murder.

I apply it thus: if it be a murder in Mr. Gerrard, if this noble lord partake with him in the design which made it so; to wit, the malice against the centinel; he is as guilty, as

if his hand had been as much* upon him as was Mr. Gerrard's; as in that known case of the man that poisoned an apple with an intent to kill his wife, and she not knowing of the poison, gave some of it to her child, of which it died; though he had no design to kill the child, yet the malice he conceived against his wife supplied the defect of an express malice to make it murder; and he was hanged therefore. So if a man assault a master, in the presence of his servant, who defends his master, and is slain, though the other had no purpose to kill him, yet it is felony in him, for which he shall die; the law implying a malice. Then here was clearly a malice to the centinel; how near it comes to the boy will come in question afterwards. I find the objection made in my lord's case, that at the particular time where the fact was committed, my lord was not with Mr. Gerrard: but that will be no objection in the case; for if he did partake in the design of the other, I will answer it with the case of my lord Dacres† of the South, who, with some others, went unlawfully to steal deer, and the keeper coming, some fled, among whom my lord was one: the keeper was killed, my lord Dacres being at that time without the pales, a mile off from the place, and yet was found guilty of the murder, and lost both his lands and life for it. But here, my lord Cornwallis was present, for the witness swears the distance was not so great but it might be discerned. Now whether he was aiding or assisting, is the next thing in question. What occasion had they of malice, revenge, or injury to the centinel? They both swore they would kill him: had there been any excuse for the other, if one of them had killed the centinel? That could not be. Well, they did not kill the centinel, but at the same time take up a causeless offence against another, and kill him. I argue, that the malice against the soldier was diffusive to the boy; and one of the witnesses proves, that one of them swore he would kill somebody: now, no one speaks to any thing of my lord's reproving Mr. Gerrard. Thus stands the case before your grace and my lords: it is a case of blood; and it cries loud: how far this noble lord and prisoner at the bar is guilty thereof, you are to enquire, and without all doubt will give a clear verdict, according to justice and honour.

L. H. Steward. My lords, you have heard the evidence; if your lordships please to go and consider of it, you may.

Then the prisoner withdrew into his own apartment, with the lieutenant of the Tower. The lords went into a room behind the court of Chancery, and after a stay of two hours returned; and being all sat, the earl of Danby, Lord High Treasurer of England, who was the first of the jury, addressed himself to my Lord High Steward, and said:

Earl of Danby. My Lord High Steward,

there is a question in law, of which some of my lords desire to receive satisfaction before they can give in their full verdict; and we desire to know of your grace, whether it be proper here to ask the question of your grace, or to propose it to the judges.

L. H. Stew. If your lordships doubt of any thing, whereon a question in law ariseth, the latter opinion, and the better for the prisoner is, that it must be stated in the presence of the prisoner, that he may know whether the question be truly put.* It hath sometimes been practised otherwise; and the peers have sent for the judges, and have asked their opinion in private, and have come back, and given their verdict, according to that opinion; and there is scarce a precedent of its being otherwise done, but there is a latter authority in print, that doth settle the point so as I tell you; and I do conceive it ought to be followed; and it being safer for the prisoner, my humble opinion to your lordship is, that he ought to be present at the stating* of the question.

Call the prisoner to the bar. Who being come, my lord spake thus to him:

L. H. Stew. My lord Cornwallis, My lords the peers, since they have withdrawn, have conceived a doubt, in some matter of law arising upon the matter of fact in your case; and they have that tender regard of a prisoner at the bar, that they will not suffer a case to be put up in his absence, lest it should chance to prejudice him, by being wrong stated; therefore, your lordship will do well to attend the question that is raised; and, my lords, will you please to propound your doubts?

Earl of Danby. It was taken notice of here, that by opening the matter by Mr. Solicitor,

* 3 Coke's Inst. fol. 429. Pasch. 26 Hen. 3, Lord Dacres's Case.

† It must certainly be in the presence of the prisoner, if you ask the judges' opinion. By lord Somers, Lord High Steward, in lord Warwick's Case, A. D. 1699, *infra*. So also in lord Stafford's Case, A. D. 1680, *infra*. Lord Finch (the Lord High Steward) says, "My Lords have directed that all the judges that assist them, and are here in your lordships' presence and hearing, should deliver their opinions," &c. So in Sacheverel's Case, A. D. 1710, *infra*, the Lords resolve, on debate, that a question should be put to the judges in the court below, where accordingly it was put and answered. But in Hastings's Case, A. D. 1787, *infra*, the questions were proposed to the judges and answered by them, not in Westminster-hall in the presence of the parties, but in the House of Lords, with the doors shut. Upon this subject, see the Report of a Committee of the House of Commons, April 30th, 1794, under the heads "Mode of putting the Questions," and "Publicity of the Judges' Opinions." See also the Protest of June 29, 1789. In lord Delamere's Case, A. D. 1686, *infra*, the judges were interrogated and made answer in open court.

* Sanders's Case in Plowden, fol. 473.

† Anno 33 H. 8, Coke, 3 Inst. fol. 211.

the matter of murder was explained to be meant by having a prepensed malice, and in that case it was opened to us, that any persons then present, and that had in any sort contributed to the disorders, they were as equally guilty, as they whose hand had shed the blood of the person killed.

Now the doubt of some of my lords is, whether if it be found but man-slaughter, those are equally guilty (that are present, and have proved to contribute to the disturbance) of that crime, as they are in murder; because some of them have not the satisfaction that they are the same.

L. H. Steward. My lords the judges, I take it, the doubt proposed to you, is this; Whether or no, those that are present, and have contributed to the disorders, whereby such an accident doth ensue, as proves to be manslaughter, be as culpable, as he that doth the immediate fact, as it is in the case of murder?

After a little pause and conference, the Judges returned this answer:

Judges. We have had conference of this case, and our humble opinion is, If sundry persons be together, aiding and assisting to an action, wherein a manslaughter doth ensue, as in case of a sudden business without malice prepensed, they are equally guilty of the manslaughter, as they are in the case of murder prepensed.*

Earl of Danby. The Lords desire to withdraw once more. Which they did, and after a short space returned; and being called over, answered to their names; and all appearing, my Lord High Steward took their verdict *seriatim*, beginning at the puisne lord in the following order, they answering, standing bare, with their hands on their breasts.

L. H. Steward. My lord Duras, Is Charles lord Cornwallis guilty of the felony and murder whereof he stands indicted, or not guilty?

Lord Duras. Not guilty.

The same question he demanded of each; who answered thus:

Lord Butler, Not guilty.

—, Not guilty.

Maynard, Not guilty of murder, but guilty of manslaughter.

Paget, Not guilty.

Berkly, Not guilty of murder, but guilty of manslaughter.

Newport, Not guilty.

Hallifax, Not guilty.

Viscount Cambden, Not guilty.

Guilford, Not guilty.

Ailsbury, Not guilty of murder, but guilty of manslaughter.

Craven, Not guilty.

Bath, Not guilty.

Clarendon, Not guilty.

Sunderland, Not guilty.

Peterborough, Not guilty.

Devonshire, Not guilty.

Northampton, Not guilty.

Bridgwater, Not guilty.

Dorset, Not guilty.

Suffolk, Not guilty.

Bedford, Not guilty.

Derby, Not guilty.

Kent, Not guilty.

Oxford, Not guilty.

Arlington, Not guilty.

Brereton, Not guilty.

Lindsey, Not guilty of murder, but of manslaughter.

Dorchester, Not guilty.

Anglesey, Not guilty of murder, but of manslaughter.

Danby, Not guilty of murder, but of manslaughter.

Lord High Steward. Call the prisoner to the bar.

Then the prisoner came to the bar, and the deputy lieutenant of the Tower held the edge of the ax towards him, while my Lord High Steward spake thus unto him;

L. H. Steward. My Lord Cornwallis, you have been indicted for murder, pleaded Not Guilty, put yourself upon your peers; and your peers upon consideration of the whole matter have acquitted you, and found you Not Guilty, so you are to be discharged.

Cl. Cr. Make proclamation.

Serjeant. O Yes! My Lord High Steward of England willeth and commandeth all persons to depart hence, in God's peace, and the king's, for my lord high steward of England his grace doth dissolve this commission. God save the King.

At which words my Lord High Steward holding the white staff (which was delivered him by the usher of the black rod on his knees) in both hands over his head, snapt it in two, and the assembly broke up.

* See East's Pleas of the Crown, c. 5, s. 4, and s. 118.

247. The Trial of ROBERT GREEN, HENRY BERRY, and LAWRENCE HILL,* at the King's-Bench, for the Murder of Sir Edmundbury Godfrey : 31 CHARLES II. A. D. 1679.

ON Wednesday the 5th of February, 1679, Robert Green, Henry Berry, and Lawrence Hill, were brought from his majesty's gaol of Newgate, to the bar of the court of King's-bench, to be arraigned for the murder of sir Edmundbury Godfrey, upon an Indictment found by the grand jury for the county of Middlesex, on Monday the morrow of the Purification of the Blessed Virgin Mary; and the court proceeded thus:

Mr. Justice Wild arraigned the prisoners.

Clerk of the Crown. Robert Green, hold up thy hand; Henry Berry, hold up thy hand; Lawrence Hill, hold up thy hand. Which they severally did.

You stand indicted by the names of Robert Green, late of the parish of St. Mary le Strand, in the county of Middlesex, labourer; Henry Berry, late of the same parish and county, labourer; and Lawrence Hill, late of the same parish and county, labourer; for that you three, together with ——— Gerald, late of the same parish and county, clerk; Dominick Kelly, late of the same parish and county, clerk; and Phillibert Vernatt, late of the same parish and county, labourer, who are withdrawn: not having the fear of God before your eyes, but being moved and seduced by the instigation of the devil, the 12th day of October, in the thirtieth year of the reign of our sovereign lord Charles the second, by the grace of God, of England, Scotland, France and Ireland, king, defender of the faith, &c. at the parish of St. Mary le Strand aforesaid, in and upon sir Edmundbury Godfrey, knight, in the peace of God, and of our said sovereign lord the king, then and there being, feloniously, voluntarily and of your malice aforethought, did make an assault; and that thou the aforesaid Robert Green, a certain linen handkerchief of the value of six-pence, about the neck of the said sir E. Godfrey, then and there feloniously, wilfully, and of thy malice aforethought, didst fold and fasten; and that thou the said Robert Green, with the handkerchief aforesaid, by thee the said Robert Green in and about the neck of the said sir Edmundbury Godfrey, in manner and form aforesaid, folded and fastened, then and there him the said sir Edmundbury Godfrey didst choke and strangle, of which said choking and strangling of him the said sir Edmundbury Godfrey, in manner and form aforesaid, he the said sir Edmundbury Godfrey then and there instantly died: and that you the said Henry Berry and Lawrence Hill, together with the said ——— Gerald, Dominick Kelly, and Phillibert Vernatt, then and there feloniously, voluntarily, and of your ma-

lice aforethought, were present, aiding, abetting, comforting and maintaining the aforesaid Robert Green, the aforesaid sir Edmundbury Godfrey in manner and form aforesaid, feloniously, voluntarily, and of his malice aforethought, to kill and murder; and so you the said Robert Green, Henry Berry, and Lawrence Hill, together with the said ——— Gerald, Dominick Kelly, and Phillibert Vernatt, in manner and form aforesaid, the aforesaid sir Edmundbury Godfrey, feloniously, wilfully, and of your malice aforethought, did kill and murder, against the peace of our sovereign lord the king, his crown and dignity.

How sayest thou, Robert Green, art thou Guilty of this felony and murder whereof thou standest indicted, and hast been now arraigned, or Not Guilty?

Green. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Green. By God and my country.

Cl. of the Cr. God send thee a good deliverance. How sayest thou, Henry Berry, art thou Guilty of the felony and murder whereof thou standest indicted, and hast been now arraigned, or Not Guilty?

Berry. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Berry. By God and my country.

Cl. of the Cr. God send thee a good deliverance. How sayest thou, Lawrence Hill, art thou Guilty of the felony and murder whereof thou standest indicted, and hast been arraigned, or Not Guilty?

Hill. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Hill. By God and my country.

Cl. of the Cr. God send thee a good deliverance.

Capt. Richardson. I desire to know when they must be brought up to be tried?

Mr. Just. Wild. Upon Friday next.

Cl. of the Cr. You shall have a rule to bring them up on Friday.

But on Thursday, the 6th of February, Mr. Attorney-General moved the court that it might be deferred till Monday, that the king's evidence might be the more ready; which was granted accordingly.

On Monday the 10th of February, 1679, the said Robert Green, Henry Berry, and Lawrence Hill, were brought again to the bar for their trial, which proceeded as followeth.

Cl. of the Cr. Make Proclamation.

Crier. O Yes!

Cl. of the Cr. Again, again.

Crier. O Yes, O Yes! our sovereign lord the king doth straightly charge and command all manner of persons to keep silence upon pain of imprisonment.

* See the Introduction to the Trials for the Popish Plot, vol. 6, p. 1424.

Cl. of the Cr. Make an O Yes.

Crier. O Yes! if any one can inform our sovereign lord the king, the king's serjeant at law, the king's attorney-general, or this inquest now to be taken of the felony and murder whereof Robert Green, Henry Berry, and Lawrence Hill, the prisoners at the bar, stand indicted, let them come forth and they shall be heard, for now the prisoners stand at the bar upon their delivery. And all others that are bound by recognizance to give evidence against the prisoners at the bar, let them come forth and give their evidence, or else they forfeit their recognizance.

Cl. of the Cr. Robert Green, hold up thy hand; Henry Berry, hold up thy hand: Lawrence Hill, hold up thy hand. Which they severally did.

Those good men that you shall hear called, and personally appear, are to pass between our sovereign lord the king and you, upon trial of your several lives and deaths: if therefore you, or any of you, will challenge them, or any of them, your time is to speak unto them when they come to the book to be sworn, and before they are sworn. *Crier,* make an O Yes.

Crier. O Yes; you good men that are impannelled to enquire between our sovereign lord the king and Robert Green, Henry Berry, and Lawrence Hill, the prisoners at the bar, answer to your names, and save your issues.

Cl. of the Cr. Sir William Roberts.

Crier. Vous avez, Sir William Roberts.

Cl. of the Cr. Sir William Roberts to the book.

Crier. Sir William Roberts, look upon the Prisoners: you prisoners look upon the jury. You shall well and truly try, and true deliverance make, between our sovereign lord the king and the prisoners at the bar, whom you shall have in charge, and a true verdict give according to your evidence. So help you God.

And the same oath was administered to the rest, and their names were as follow: Sir William Roberts, bart. Sir Richard Fisher, bart. Sir Michael Heneage, kt. Sir Thomas Bridges, kt. William Avery, Charles Humphreys, John Bathurst, Richard Gowre, Thomas Henslowe, John Sharpe, John Haynes, and Walter Moyle, esquires.

Cl. of the Cr. *Crier,* count these. Sir William Roberts.

Crier. One, &c.

Cl. of the Cr. Walter Moyle.

Crier. Twelve good men and true, stand together, and hear your evidence. Gentlemen, are you all sworn? and you that are not sworn, pray withdraw.

The standing-place for the jury being so thronged, that those who were sworn had not room to stand together, the Clerk of the Crown was ordered to make proclamation thus;

Cl. of the Cr. *Crier,* make Proclamation.

Crier. O Yes! my lords the king's justices do straitly charge and command all persons

VOL. VII.

that are not of the jury, to withdraw forthwith, upon pain of 100*l.* a man.

Cl. of the Cr. Robert Green, hold up thy hand; Henry Berry, hold up thy hand; Lawrence Hill, hold up thy hand. Which they severally did.

Gentlemen, you that are sworn, look upon the prisoners, and hearken to their charge: You shall understand, that they stand indicted by the names of Robert Green, late of the parish of St. Mary le Strand in the county of Middlesex, labourer; Henry Berry late of the same parish and county, labourer; and Lawrence Hill, late of the same parish and county, labourer; for that they, together with, &c. (as before) against the peace of our sovereign lord the king, his crown and dignity. Upon this indictment they have been arraigned, they have thereunto severally pleaded Not Guilty, and for their trials have severally put themselves upon God and their country, which country you are. Your charge is to enquire, whether the prisoners at the bar, Robert Green, Henry Berry, and Lawrence Hill, or any of them, are guilty of the felony and murder whereof they stand indicted, or not guilty; and for them which you shall find guilty, you shall enquire what goods or chattels, lands or tenements, they had at the time of the felony committed, or at any time since. If you find them, or any of them, not guilty, you shall enquire, whether they, or any of them, that you find so not guilty, fled for the same; if you find that they or any of them fled for the same, you shall enquire of their goods and chattels, as if you had found them guilty: but if you find them, nor any of them, not guilty, nor that they did fly for it, say so, and no more, and hear your evidence. *Crier,* make proclamation.

Crier. O Yes! If any one will give evidence on behalf of our sovereign lord the king, against Robert Green, Henry Berry, and Lawrence Hill, the prisoners at the bar, let them come forth, and they shall be heard.

Mr. Serjeant Stringer. May it please your lordship, and you gentlemen of this jury, the prisoners at the bar, Robert Green, Henry Berry, and Lawrence Hill, stand indicted, for that they, with one Gerald a priest, one Kelly, and one Vernatt, did the twelfth of October last, at the parish of St. Mary le Strand in this county, feloniously, wilfully, and of their malice aforethought, assault the person of sir Edmundbury Godfrey, kt. and that the prisoner, Robert Green, did put about the neck of the said Sir Edmundbury a twisted handkerchief, and did with that twisted handkerchief so choke and strangle the said Sir Edmundbury, that he immediately died; and that the other prisoners, Henry Berry and Lawrence Hill, with the other persons, Gerald, Kelly, and Vernatt, were aiding and assisting the said Robert Green to murder the said Sir Edmundbury; and so the prisoners at the bar, with the said other persons, the said Sir Edmundbury Godfrey did kill and murder,

M

against the king's peace, his crown and dignity. To this they have pleaded Not Guilty, and for their trial have put themselves upon their country, which country you are. If we prove them or any of them guilty, you are to find it so.

Attorney General (Sir William Jones). May it please your lordship, and you gentlemen of this jury, the prisoners who stand now at the bar are indicted for murder. Murder, as it is the first, so it is the greatest crime that is prohibited in the Second Table. It is a crime of so deep a stain, that nothing can wash it away but the blood of the offender, and unless that be done, the land in which it is shed will continue polluted. My lord, as murder is always a very great crime, so the murder which is now to be tried before your lordship is, it may be, the most heinous and most barbarous that ever was committed. The murder was committed upon a gentleman, and upon a magistrate, and I wish he had not therefore been murdered, because he was a Protestant magistrate. My lord, I will not spend much of your time in making my observations before hand, because I must in this case crave leave to do it in the conclusion of the evidence. For I, that have made a strict examination into this matter, do find, that I shall better spend my time in making observations, and shewing how the witnesses do agree, after the evidence given, than before. Therefore, my lord, I shall at present only make a short narrative of the fact, to shew you the course of our evidence, that it may be the better understood and remembered by the jury. My lord, upon the discovery of the late horrid plot—

Lord Chief Justice (Sir William Scroggs.) And present Plot too, Mr. Attorney: but pray go on.

Att. Gen. If your lordship please, you may call it so, for it is to be feared they have not yet given it over: but upon the discovery of that Plot (call it late or present) sir Edmund-bury Godfrey (whom I suppose the jury all knew, and every man that lived thereabouts must needs remember to have been a very useful and active justice of the peace) had taken several examinations about this matter, and perhaps some more than now are extant; (but we have proof he had some) and was very industrious in finding out the principal actors in this plot, among whom, some priests and Jesuits foreseeing their own danger, and likewise the overthrow of a design which they had been so long in contriving, they had several consultations how to prevent the discovery. And as they are men who never stick at blood, but rather account it meritorious to shed it, though never so unjustly; when their interest may be profited by it, they did resolve to secure themselves and their design by taking away the life of this gentleman. In order thereunto they had several meetings, and the place of their meeting, you will find by the evidence, to be at the Plow-alehouse, and there they did

consult how to take away the life of sir E. Godfrey. And they made several attempts to do it: one while they dogged him into the fields, another while they sent people to spy when he came abroad, that they might follow him into some dark alley, or other obscure or unfrequented place, and there dispatch him; and at last, after many attempts, they succeeded in that wicked one, when the murder was committed.

My lord, there are contained in this indictment six offenders, all principals; three of them, I think, are priests, or at least two of them are so; that is, Father Girald an Irishman, Father Kelly likewise of the same nation, and one Vernatt, whether a priest or layman I know not. These priests (as they are always the first that contrive mischief, so they are always the first that fly punishment) have taken care for themselves, and run away, and left their blind followers, the prisoners at the bar, whom they had drawn into this bloody act, alone to answer for it.

The day when this murder was committed was Saturday the 12th of October last; and I must desire your lordship to take notice of the day, for upon that much of the evidence will depend. And we shall prove, that as they did before send several times to sir E. Godfrey's house to get intelligence of his going abroad, so this very day in the morning, Hill, one of the prisoners at the bar, came to his house upon pretence of business with him; and, as we guess, and have reason to believe, to learn whither he went that day: Green (another of the prisoners) had been there before on the same errand. And so much we shall prove to you by the people of the house. Sir E. Godfrey happened about noon, or some time in the afternoon of the same day (as we have it by the confession of one of the parties,) to be at an house near St. Clement's church, where these murderers had notice he was, and had prepared a trap for him as he came back. They had appointed men to watch him, and give them notice when he did come back; and whatever his business was at the house that he was in (for it cannot yet be known) he staid there till about seven or eight o'clock at night: and your lordship knows that at that time of the year it is then dark. He coming from about St. Clement's church towards his own house near Charing Cross, notice was given to the murderers of his approach near to Somerset-house. And thus they had laid their bloody contrivance: some of them were appointed to meet him at the back-gate of Somerset-house, and to inform him that there was a quarrel in the yard, and he being a man always careful to keep the peace and punish them that broke it, they thought it a very apt means to train him into the yard. And when he came near the back-gate they did accordingly acquaint him that two of the queen's servants were fighting in the yard, and that they needed his presence to part and quiet them. He, at first, thought it might be but

some ordinary idle scuffle, and was not willing to go down; but being very much importuned by them, down he went, through the back-gate into the yard, where were indeed two men scuffling together, but counterfeitedly; the one was Berry, the prisoner here; the other was Kelly, the priest that is run away. And when sir E. Godfrey was come, and within their reach, then, as it was before contrived, the fray of itself ended, and Berry goes to the lower water-gate, and Mr. Praunce (who was in that foul fact, but hath since repented, and hath made this discovery) to the upper-gate, to keep back any casual passengers for a little while, till such time as the murder was over.

My lord, things being thus prepared, whilst sir E. Godfrey stood still, or was returning, having no more to do there, after the scuffle was thus appeased, Green, one of the prisoners, coming behind him, puts a cravat, or a twisted linen cloth (which he had ready for the purpose) about his neck. And he, Hill, and those holy fathers Girald and Kelly (with great veneration be it spoken, for men of their order to stain their hands with the blood of an innocent gentleman, and that in so treacherous a manner,) all set upon him, and very manfully, being four upon one, and he altogether surprized, threw him down and strangled him. And this was done (as it is easy to imagine) without much noise; so that I doubt not but many that were near the place might be ignorant of it, and did not hear it.

My lord, though the thing was done with a great zeal, and a very good will to dispatch him, yet it so happened, that when Mr. Praunce came back from keeping sentinel at the gate, there was some life left in sir E. Godfrey; he did stir his feet, and thereby they perceived that he was not quite dead. But to make thorough work with him, Green (who begun, and was to give an accomplishment to this bloody fact) takes hold of his head and twists his neck round, and stamps upon his breast, the marks of which outrageous cruelty did plainly appear in his body after it was found.

My lord, after they had thus killed him, Girald the priest thought he was not yet dead enough, and was very willing to run him through with sir Edmondbury's own sword; but that was not liked by the rest, lest it might be discovered by a great effusion of blood in that place; and so they forbore it for that time. Having thus dispatched him, they removed him to the chamber of Hill, where they kept him some time, and after that to another chamber. I will not be particular herein; because the witness will give the best account of it. But after some time, (I desire it may be observed, it was on Monday night, two nights after the fact was committed) they brought him into another room and laid him there, with a cloke thrown over him. And I mention this last so particularly, because he then happened to be seen by another witness here present, who concurs as to his lying there

dead; and that he saw him by the help of a dark lanthorn, of which, and other circumstances, I shall have occasion to make use hereafter.

My lord, after he had lain in Somerset-house some days, they thought it was high time to remove him; or rather to expose him: for having now killed him, they did endeavour to kill his reputation; and lay the blame of this foul murder upon this innocent gentleman, as if he had killed himself: and on Wednesday night, which by computation was the 16th of October, they carried him out of Somerset-house in this manner: Hill having late in the night procured a sedan, they made a shift, by bending the body to a fit posture, to crowd him into it; and Berry, one of the murderers, and porter of Somerset-house, was of all men most proper to help them out with privacy; and therefore it was agreed between them, that whenever a man should come before and make an hem, it should be a sign to Berry to open the gate. And, my lord, having put him into the sedan, Mr. Praunce and Girald first carried him out in it to Covent Garden, and there they rested (being something wearied with their burden) and two more supplied their rooms, and carried him to Long-acre. Then Girald and Praunce took him up again, and carried him to the Grecian church near Soho: and when they had him there, they got an horse ready and mounted him upon it, and Hill was set behind him to hold him up; by which means they carried him to the place where he was found; and there, to accomplish the last part of their design, which was to murder his reputation, after they had killed his body, they took his own sword and run him through, and left him in such a manner, as that (according to the weakness of their understanding) the world should conclude he had killed himself. In that condition was the gentleman found. I have but little more at present to trouble you with, and that shall be to shew you what the murderers did after they had committed this fact. They gave an account of it the next morning to Mr. Praunce, who went no further than the sedan went, which was to the Grecian church; and the priests were so far from any remorse, and had so little humanity, (I believe there is none can think they had much of divinity) that they did in a paper, set down a narrative of this heroic act: and I doubt not, but by this time it is sent to Rome, where it finds as great approbation, and causes as great joy, as their other acts of a like nature have heretofore done. Some days after the fact was done, and, to their everlasting honour, thus by themselves recorded, some of these priests had a meeting at the Queen's-head at Bow, and there was the paper produced and read; at which they were very merry, and were so loud, that some of the house overheard them; and do yet remember that they read, and were merry at, a paper which concerned sir E. Godfrey.

My lord, this will be the course of our evidence; and though your lordship and the jury

will easily believe that most of these particulars must arise from one who was party to the fact, yet, my lord, I will undertake, before I have done, so to fortify almost every particular he delivers, with a concurrent proof of other testimony, and the things will so depend upon one another, and have such a connection, that little doubt will remain in any man's mind, that is come hither without prepossession, but that sir E. Godfrey was murdered at Somerset-house, and that the persons who stand now indicted for it were the murderers.

Recorder. (Sir George Jefferies.) My lord, if your lordship pleases, according as Mr. Attorney hath opened it, we desire we may call our witnesses; and first we will call Mr. Oates.

Crier. Mr. Oates, lay your hand on the book. The evidence you shall give for our sovereign lord the king, against Robert Green, Henry Berry, and Lawrence Hill, the prisoners at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.

Solicitor General. (Sir Francis Winnington.) Pray, Mr. Oates, will you give my lord and the jury an account what transactions there were between you and sir E. Godfrey; and that, my lord, is all we call him for.

Att. Gen. My lord, I call this gentleman to prove what examinations sir E. Godfrey had taken, and what was his own opinion of himself about them.

L. C. J. Mr. Attorney, I suppose the use you make of it is this, to shew, that that might be one of the motives to these persons to do this act, because he was forward in the discovery of their Plot.

Att. Gen. It is so, my lord; and that it was his opinion himself that he should have some mischief from them for it.

L. C. J. Come, Mr. Oates, pray tell your knowledge.

Oates. My Lord, upon the 6th of September last I did go before sir E. Godfrey, and there upon oath gave in several depositions, and after that I had made oath of those depositions, we took the record along with us home again. And on the 28th of September, after we had taken two or three copies of this record, we went before sir E. Godfrey again, and swore all the copies we had taken, and so made them records. My lord, after that, the business was made known to the council by myself, and upon Monday Mr. Godfrey came to me, which was, I think, the 30th of September, and did tell me, what affronts he had received from some great persons, (whose names I name not now) for being so zealous in this business. And, my lord, he told me, that others, who were well inclined to have the discovery made, did think that he had not been quick enough in the prosecution, but had been too remiss, and did threaten him, that they would complain to the parliament, which was to sit the 21st of October following. My Lord, that week before sir E. Godfrey was missing, he came to me, and told me, that several popish lords, some of whom are now in the Tower, had threatened

him, and asked him what he had to do with it. My Lord, I shall name their names when time shall come. My Lord, this is all I can say: he was in a great fright, and told me, he went in fear of his life by the popish party, and that he had been dogged several days.

Att. Gen. Did he tell you that he was dogged?

Oates. Yes, he did; and I did then ask him, why he did not take his man with him; he said he was a poor weak fellow: I then asked him why he did not get a good brisk fellow to attend him? But he made no great matter of it; he said, he did not fear them, if they came fairly to work; but yet he was often threatened, and came sometimes to me to give him some encouragement; and I did give him what encouragement I could that he would suffer in a just cause, and the like; but he would often tell me he was in continual danger of being hurt by them.

Att. Gen. We desire Mr. Robinson may be sworn. Which was done accordingly.

Recorder. Pray sir, will you tell the court and the jury, what discourse you had with sir E. Godfrey, and what apprehensions he had concerning this business.

Tho. Robinson, esq. (Chief Prothonotary of the court of Common pleas.) My lord, sir E. Godfrey and I were of a very ancient acquaintance for above forty years; we were bred up together at Westminster-school, and continued in that acquaintance all along, except in the times of the war, and were for many years together in commission for the peace, both for this county and this city. We met at the quarter sessions for Westminster, the 7th of October, which was Monday, as I take it, and meeting there, we went, after the court was up, and dined with the head bailiff, as the custom is; where sir E. Godfrey and I did discourse several things about this Plot; I said to sir E. Godfrey, I understand you have taken several examinations about this Plot, that is now made public: truly, said he, I have; but I think I shall have little thanks for my pains, or some such words: saith he, I did it very unwillingly, and would fain have had it done by others. Why said I, you did but what was your duty to do, and it was a very good act: pray, sir, have you the examinations about you, will you please to let me see them? No, I have them not, said he; I delivered them to a person of quality; but as soon as I have them, you shall see them. But, said I, I should be very glad to understand, sir Edmundbury, that the depth of the matter were found out. I am afraid, said he, of that that it is not; but discoursing further, he said to me, 'Upon my conscience, I believe I shall be the first Martyr.' Why so? said I, are you afraid? No, said he, I do not fear them, if they come fairly, and I shall not part with my life tamely. Why do not you go with a man, said I, if you have that fear upon you? Why, said he, I do not love it, it is a clog to a man. But, said I, you should do well to keep a man; I observe you never go with one.

Att. Gen. But did he tell you, Sir, that he did believe he should be the first martyr?

Robinson. Yes, he did say, Upon his conscience, he did believe he should be the first martyr; and this is all I can say of this business.

Att. Gen. Then, if your lordship please, we will, in the next place, call Mr. Praunce, who was drawn in to be present at this business, and who knew of all the fact, and will give you an account of the whole matter.

Then Mr. Praunce was sworn.

Att. Gen. Pray, Sir, begin at the very beginning; the meetings you had at the Plough alehouse, and the sending to sir Edmundbury's house, and all the story.

L. C. J. Mr. Praunce, pray tell us the first motives that were used to you to do this thing, and the first time it was mentioned; who they were that first mentioned it, and where.

Praunce. My lord, it was about a fortnight or three weeks before he was murdered, we met several times at the Plough alehouse.

L. C. J. With whom?

Praunce. With Mr. Girald, Mr. Green and Mr. Kelly. Girald and Kelly did intice me in, and told me it was no sin.

Recorder. Girald and Kelly did?

Praunce. Yes, Girald and Kelly.

Recorder. What are they?

Praunce. Two priests: And they said, it was no sin, it was a charitable act: They said he was a busy man, and had done and would do a great deal of mischief, and it was a deed of charity to do it; and so they told the rest besides.

Att. Gen. Where was it they said thus?

Praunce. They said it at the Plough, and by the water-side.

Recorder. Well said. How long was it before he died?

Praunce. A week or a fortnight before he was murdered, and Green, Hill and Girald met there together.

Att. Gen. What discourse had you then?

Praunce. There they resolved, that the first that could meet with him should give notice to the rest to be ready; and so in the morning, when they went out on Saturday—

Att. Gen. But before you come to that, do you know of any dogging of him into the fields?

Praunce. Yes, it was before that, I heard them say they would, and had dogged him into the fields.

L. C. J. Who did you hear say so?

Praunce. Girald, Kelly and Green.

Att. Gen. That Green is one of the prisoners.

Recorder. Which way did they dog him? what fields?

Praunce. Red-lion-fields, and those by Holborn.

Att. Gen. Why did they not kill him there?

Praunce. Because they had not opportunity.

Att. Gen. Do you know of any sending to his house, or going to it?

Praunce. One time I do know of, and that was Saturday morning, Mr. Kelly came to give me notice, that they were gone abroad to dog him; and afterwards they told me, that Hill or Green did go to his house and ask for him, but the maid told him, he was not up, and then went away, and said he would call by and by.

Hill. What time was that in the morning?

Praunce. It was about 9 or 10 o'clock in the morning.

Hill. And had we been there before or after?

Praunce. You had been there before.

Recorder. Pray stay till such time as we have done with our evidence, you shall have all free liberty to ask him any question; but you must stay till we have done.

Praunce. As soon as they heard he was within, they came out and staid for his coming out, and dogged him.

L. C. J. Did all three of them go to his house?

Praunce. No, my lord.

L. C. J. Who was it did go?

Praunce. Only one, either Hill or Green.

L. C. J. How do you know that?

Praunce. They told me so themselves, for they came to give me notice.

L. C. J. Who told you so?

Praunce. It was Girald and Green both.

L. C. J. Did Green tell you that he had been there?

Praunce. He told me one of them, but I am not certain which. And so, my lord, after that, when he came out they dogged him that day up and down.

Mr. Justice Jones. Who dogged him?

Praunce. Girald, Green and Hill dogged him into St. Clement's; and about seven o'clock, Green came and gave me notice, that he was at St. Clement's, and I came to Somerset-house as fast as I could.

L. C. J. Where were you?

Praunce. At my own house.

L. C. J. How far did you live from Somerset-house?

Praunce. I lived in Princess-street, not far from Somerset-house.

Recorder. Who was it gave you notice?

Praunce. It was Green. He told me, that Girald and Kelly were watching him, and that he was at St. Clement's.

L. C. J. Where was he?

Praunce. At St. Clement's, my lord.

L. C. J. Where there?

Praunce. I was not there, they told me so, and no more; and about eight or nine o'clock, Hill came before, up the street, and gave us notice that we must be ready. And so, my lord, as soon as Hill had given us notice, he went up to the gate, and staid there till sir E. Godfrey came by, and then told him, there were two men a quarrelling, and desired him to come and try whether he could pacify them: he was

very unwilling. But pray, Sir, saith Hill, you being a justice of the peace, may qualify them; and so he went down till he came to the bottom of the rails; and when he came to the bottom of the rails, Green twisted his handkerchief, and threw it about his neck, and threw him behind the rails, and there throttled him, and punched him, and then Girald would have thrust his sword through him; but the rest would not permit him, for fear it should discover them by the blood. And about a quarter of an hour after I came down, and found he was not quite dead; for I laid my hand upon him, and his legs tottered and shook, and then Green wrung his neck quite round.

Att. Gen. Who was it that took him by the neck?—*Praunce.* It was Green, my lord.

L. C. J. Did you see him?

Praunce. No, but he did tell me afterwards that he did it.

L. C. J. Who, Green himself?

Praunce. Yes, my lord, for he boasted of it.

Att. Gen. Pray what did he do to him besides?

Praunce. He punched him with his knee.

L. C. J. Did you see him do this? How do you know he did it?

Praunce. He and the rest told me so afterwards.

L. C. J. Where were you at that time the handkerchief was twisted about his neck?

Praunce. As soon as I came down I went towards the gate.

L. C. J. Who ordered you to stand at the gate?

Praunce. It was Hill.

Mr. Serj. Stringer. You watched the water-gate, who watched the stairs?

Praunce. That was Berry.

Recorder. Pray give an account what they did afterwards.

Praunce. Why, afterwards——

Att. Gen. Who told you that Green twisted his neck?

Praunce. All spoke of it.

Att. Gen. Did Hill?

Praunce. Yes, he and the rest.

Att. Gen. How came you to understand that he punched his breast?

Praunce. Green spoke of it himself, and so did the others.

Att. Gen. Who were about his body when you came down to the gate?

Praunce. All four.

Att. Gen. Name them.

Praunce. Hill, Green, Girald, and Kelly.

Att. Gen. Was Berry there?

Praunce. He came to them a while after.

Att. Gen. When?

Praunce. Before they carried him into the house.

Att. Gen. How can you tell that?

Praunce. Because he helped them to carry him in.

Sol. Gen. Where was Berry before they carried him into the house?

Praunce. He was about the stairs.

Recorder. Who was it that carried him up into the room?

Praunce. We all did.

Recorder. Pray name all that were in the company.

Praunce. There was Girald, Green, Hill, Kelly, Berry, and I.

Att. Gen. Whose set their hands to it?

Praunce. We all did help; Hill went before and opened the door, and we carried him into the room.

Att. Gen. Whose room was that?

Praunce. It was a chamber of Hill's, in Dr. Godwin's house.

Recorder. Was Hill Godwin's man?

Praunce. Yes, he had been.

Mr. Justice Jones. Did Berry help to carry him in?

Praunce. Yes, Berry did.

Mr. Serj. Stringer. Was there any discourse of a sword to be thrust through him at that time?

Praunce. Yes, Girald said he would thrust a sword through him; but they would not let him, for fear of discovery.

Att. Gen. What became of the body?

Praunce. It lay there till Monday night, and on Monday it was removed to Somerset House, and upon Monday night Hill did shew me it with a dark-lantern.

Att. Gen. Who were in the room then?

Praunce. Girald, and Hill, and Kelly, and all were there. And on Tuesday night it was brought back again: Mr. Hill would have carried him into his own lodging.

L. C. J. Whither did they carry him on Monday night?

Praunce. Into Somerset House.

Just. Wild. Is not Hill's chamber in Somerset House?

Serj. Stringer. Describe the room, Mr. Praunce, as well as you can.

Praunce. I am not certain of the room, and so cannot describe it.

Just. Wild. But was not Hill's chamber in Somerset House?

Praunce. It is in the lower part of the house, in a court.

Att. Gen. When you saw him in this room, pray what was thrown over him?

Praunce. There was something, I cannot tell what; for I durst not stay long there.

Just. Dolben. What light was there?

Praunce. Only a dark lantern.

Att. Gen. Who carried it?

Praunce. Hill carried it.

Just. Dolben. Are you sure you saw the body there?

Praunce. Yes, I am certain of it.

Att. Gen. What became of it after that?

Praunce. On Tuesday night it was carried to Hill's, the chamber where he was first brought after he was murdered; but there was somebody there, and so they could not carry it into the room, but they carried him into a room just over against, I think they were sir John

Arundell's lodgings, I cannot tell. There it lay till Wednesday night, and about nine o'clock on Wednesday night they were removing the body into the room where it first lay; and I happened to come as they were removing it, and they were affrighted and run away: But I spoke, and Berry came back again, and got the body up into the room, and about 12 o'clock they carried it away in the sedan.

Att. Gen. Who brought the sedan?

Praunce. Hill did.

Att. Gen. Who put him into it?

Praunce. We all set our hands to it.

Att. Gen. Who carried him out first?

Praunce. I and Girald.

Att. Gen. Out of which gate.

Praunce. The uppergate of the upper court.

Att. Gen. How came you to have the gate opened?

Praunce. Berry opened it.

Att. Gen. How came he to open it?

Praunce. Somebody hem'd; and that was the sign.

Att. Gen. Who was it that carried the sedan first?—*Praunce.* I and Girald.

Att. Gen. Who went before?

Praunce. Green and Kelly.

Recorder. How far did you carry him?

Praunce. Into Covent Garden, and there we rested.

Att. Gen. And who took him up then?

Praunce. Green and Kelly.

Att. Gen. How far did they carry him?

Praunce. They carried him to Long-Acre. Then we took him up, and carried him to Soho church, and there Hill met us with an horse, and we helped the body up.

Att. Gen. Who was it that rid behind him?

Praunce. It was Hill.

Att. Gen. What did you do with your sedan?

Praunce. We set it in a new house till we came back again.

L. C. J. You say you saw him on horse-back?

Praunce. Yes my Lord, I did.

L. C. J. How, in what posture?

Praunce. Astride; his legs were forced open, and Hill held him up.

Hill. Did I hold him?

Praunce. Yes, you did.

L. C. J. Did the others go with him?

Praunce. Yes, my Lord.

L. C. J. Who did go with him?

Praunce. Green, Hill, Girald and Kelly.

Att. Gen. Pray, will you tell my lord and the Jury, what account they gave you the next morning concerning the body, and how they had disposed of it.

Praunce. They told me—

L. C. J. Who told you?

Praunce. Hill, Kelly and Girald.

L. C. J. What did they tell you?

Praunce. First, that they had run him through with his own sword; then thrown him into a ditch, and laid his gloves and other things upon the bank.

Att. Gen. Pray tell now the story of your meeting at Bow. What was the house called you met at?

Praunce. It was the sign of the Queen's-Head.

Att. Gen. Who was it that did meet there?

Praunce. They were priests; I cannot so well remember their names, they are written down in this paper.

Recorder. Look on the paper yourself; you can read, I suppose?

Praunce. There was one Luson, a priest, I think.

Att. Gen. Where did he live?

Praunce. He was with Vernatt.

Att. Gen. What was the occasion of your meeting there?

Praunce. Vernatt told me it was only to be merry there.

Att. Gen. What was the man of the house his name?

Praunce. One Casshes.

Att. Gen. Did you dine there?

Praunce. Yes.

Att. Gen. What had you for dinner?

Praunce. We had a barrel of oysters, and a dish of fish: I bought the fish myself.

L. C. J. What day was it?

Praunce. The Friday after the Proclamation, that all the papists were to be gone out of town.

Recorder. Tell what company you had there, and what discourse.

Praunce. There was Mr. Vernatt, and I, and Mr. Girald, and that other priest, and one Mr. Dethicke.

Att. Gen. Who sent for him?

Praunce. Mr. Vernatt sent a note for him by a cobbler.

Att. Gen. Did he come upon that note?

Praunce. He came presently. And when he was come, then they read all the writing of the murder; for Mr. Vernatt should have been one at the doing of it, but something happened he could not.

Att. Gen. Mr. Vernatt was very sorrowful at the reading of it, was he not?

Praunce. If he was, it was because he was not there.

Att. Gen. How did he behave himself? Did he read it with any pleasure and delight?

Praunce. We were all very merry.

Att. Gen. What can you say about any body's over-hearing you?

Praunce. There was a drawer came and listened at the door, and I hearing the door a little rustle, went to the door, and caught him listening; and said I to him, sirrah, I could find in my heart to kick you down stairs; and away he went.

Just. Wild. Was Vernatt with you there that night he was murdered, the Saturday night?

Praunce. No; there was only the six I have named.

Just. Jones. You say that you met at the Plow the first night?

Praunce. Yes.

Just. Jones. And there you were told, that it was a very charitable act to kill sir E. Godfrey?

Praunce. Yes, I was so.

Just. Jones. Was it agreed there that he should be killed?

Praunce. It was agreed there; and the first that met him were to give notice to the rest.

Just. Jones. Who were there?

Praunce. Girald, Kelly, Green and I.

L. C. J. When came Hill and Berry into this cause? How came they acquainted with it?

Praunce. They were in it before I.

L. C. J. Who told you they were in it?

Praunce. Mr. Girald, my lord, told me so.

Just. Jones. Hill and Berry were not at the Plow, where did you first hear them speak of it?

Praunce. Girald and I have been at Berry's house divers times.

Just. Dolben. But there were two meetings at the Plow, were there not?

Praunce. Yes, there were.

Just. Dolben. And Hill was at the last meeting, was he not?

Praunce. Yes, he was, my lord.

Att. Gen. Now I would ask you this question by the favour of the Court, was there any reward proposed by these priests for the doing of it?

Praunce. Girald and Vernatt did speak of a great reward that was to be given for it.

Att. Gen. Pray, how much?

Praunce. I do not remember what.

Att. Gen. Cannot you tell how much?

Praunce. There was to be a good reward from my lord Bellasis, as they said.

Justice Dolben. You had several meetings, you say: Did you there resolve what should be the way of doing it?

Praunce. Girald was resolved to kill him that night; and if he could not get him into a more convenient place, he would kill him with his own sword, in the street that leads to his own house.

Recorder. Who was that that resolved so?

Praunce. It was Girald.

Recorder. The priest, rather than fail, was resolved to do that act of charity himself.

Att. Gen. I would now ask you a question, which though it does not prove the persons guilty, yet it gives a great strength to the evidence. Do you know Mr. Bedlow, Mr. Praunce.

Praunce. I do not know him.

Att. Gen. Had you ever any conference with him before you was committed to prison?

Praunce. Never in all my life.

Att. Gen. Were you ever in his company in your life before, that you know of?

Praunce. No, not that I remember.

Att. Gen. Well, you shall see how far he will agree with you.

Recorder. Now they may ask him any questions, if they please, for we have done with him.

L. C. J. Let them if they will.

Hill. My lord, in the first place, I humbly pray that Mr. Praunce's evidence may not stand good against me, as being perjured by his own confession.

L. C. J. How?

Hill. I suppose, my lord, it is not unknown to you that he made such an open confession before the king.

L. C. J. Look you, sir, I will tell you for that, I do not know that ever he made a confession to contradict what he had said upon his oath.—*Hill.* He was upon his oath before.

L. C. J. Yes, he had accused you upon oath; but afterwards, you say, he confessed that it was not true, but that confession that it was not true, was not upon oath: How is he then guilty of perjury?

Hill. My lord, if a man can swear a thing and after deny it, he is certainly perjured.

L. C. J. If a man hath great horrors of conscience upon him, and is full of fears, and the guilt of such a thing disorders his mind, so as to make him go back from what he had before discovered upon oath, you can't say that man is perjured, if he don't forswear it: But I believe no body did believe his denial, because his first discovery was so particular, that every man did think his general denial did only proceed from the disturbance of his mind. But have you any mind to ask him any questions?

Recorder. We can prove, that immediately after he retracted his recantation.

Justice Dolben. Try if you can trap him in any question.

Hill. Pray what hour was it that I went to sir Edmundbury Godfrey's?

Praunce. About nine or ten o'clock, I am not certain in the hour.

L. C. J. No, no, a man cannot be precise to an hour; but prove you what you can.

Hill. I have a great many witnesses, besides the justice of my cause, that I was not out of my house that day.

L. C. J. You shall be heard for that; but the present matter is, whether you will ask him any questions or no?

Hill. My lord, it is all false that he says, and I deny every word of it, and I hope it shall not be good against me.

L. C. J. Well, Mr. Berry, will you ask him any questions?

Berry. Mr. Praunce, who was in my house at that time you speak of?

Praunce. There was your wife there, and several other persons besides.

Berry. Who were they?

Praunce. There were divers people; it is an ale-house.

Berry. But who? Can you name any of them?

Praunce. There was Girald, and Kelly, and I.

L. C. J. Why, did you not all know Mr. Praunce?

Berry. My lord, I knew him as he passed up and down in the house.

L. C. J. Why, what answer is that? what do you mean by his passing up and down in the house? did you never drink with him?

Berry. Drink with him, my lord? Yes.

L. C. J. Yes? why people don't use to drink as they go along.

Berry. It was in other company that came to my house, no acquaintance of mine.

L. C. J. Was not Mr. Praunce known by you all three? which of you can deny it? what say you, Hill?

Hill. My lord, I did know him.

L. C. J. What say you, Green?

Green. Yes, I did know him.

Att. Gen. But yet, my lord, we shall prove in the course of our evidence, that upon their examinations, they did deny they ever knew him; but because the prisoners give us this occasion, I desire Mr. Praunce may give an account of one thing. He was concerned in this very fact, and there was no other way to get any proof of it, than by the discovery of one among themselves. He was once of that religion, or else he had never been concerned in this thing. And your lordship will find that Mr. Praunce, while he was of that religion, and not sure of his pardon, was under some disturbances and fears, which prevailed with him to come before the king, and deny what he had sworn. But, my lord, which is very observable, this gentleman that had made that denial before the king, was so far convinced that he had done amiss in it, and so troubled that he had done it, that he desired captain Richardson (as soon as he returned back to prison) to carry him back to the king again; for he must go back and make good that confession which he at first had made; for it was every word true. And being for the king, we desire captain Richardson may be sworn.

Justice Wild. Can you tell where sir E. Godfrey was dogged?

Praunce. No, my lord, I cannot.

Justice Wild. You say they did tell you, that they dogged him up and down: Did not they tell you from whence they dogged him, when they killed him?

Praunce. No, they did not.

L. C. J. Mr. Richardson, were you by, when Mr. Praunce denied all that he had confessed?

Captain Richardson. My lord, upon the Sunday night before the prorogation of the last parliament, I received a letter from one of the lords of the council, to bring up Mr. Praunce before the lords of the committee for his examination. When I brought him thither I found Mr. Praunce was disturbed, and desired to speak with the king; and I carried him into the king's closet, where he fell down on his knees, and said, 'He was innocent, and they were all innocent;' and that was the substance of all he said. I then had him up to the council, where he said the same thing. The lords asked him, whether any body had been tampering with him? He answered, No. My lord, when I came home, I was no sooner got within the doors, but he begged of me, for God's sake, to go back to the king, and to acquaint him, not only that what he had now said, was false; but that all which he had sworn before, was truth. And if his majesty would send him a pardon, he would make a

great discovery. And, my lord, more than that, he said, It was fear that made him recant; and he gave a full satisfaction, that it was only out of an apprehension that his life was not secure, that his trade would be lost among the Roman Catholics; and in case he had his pardon, and were saved, he should have been in danger of being murdered by them.

L. C. J. Now you have an account, Mr. Hill, how he came to deny, and how soon he recanted his denial.

Justice Jones. You are upon your oath, Mr. Praunce: Is this all true that he hath said?

Praunce. Yes, my lord, it is.

Recorder. How hath he behaved himself since that time?

Captain Richardson. As soberly as can be, since he had his pardon.

Att. Gen. Pray, since that time, have you had any discourse with him? And how did he carry himself?

Captain Richardson. Very soberly.

Att. Gen. Did he express any abhorrence of the practice of that church?

Captain Richardson. Yes, my lord, he did so.

Att. Gen. I hope it will make all people abhor and forsake them in time, if these be their practices. In the next place, my lord, we will call Mr. Bedlow, who, though he was not present at the murder, yet he saw the body after it was dead in Somerset-house, which goes to the matter as to the place; and he will give you some circumstances which will very much corroborate the testimony of Mr. Praunce.

Justice Wild. What time was it before they carried him in, after they had killed him?

L. C. J. Brother, I think they say, between eight and nine they decoyed him through the water-gate. Was it not so?

Praunce. Yes, my lord.

Justice Wild. How long had they killed him before they carried him into the room?

Praunce. About a quarter of an hour.

Justice Wild. Had he his sword about him?

Praunce. Yes, it was found run through him.

Justice Wild. Did sir E. Godfrey himself draw his sword?

Praunce. No, he was strangled by surprise, by getting a thing about his neck, and prevented him of drawing his sword.

L. C. J. They were persons that were ready prepared for him, they would not permit him to defend himself.

Serjeant Stringer. My lord, before Mr. Bedlow be sworn, I desire a little to open what we call him to. My lord, there were four priests that did design this murder; Le Faire and Welsh, and Gerald and Kelly, besides the other priests; and they treated with Mr. Bedlow for 4,000*l.* to undertake to kill a gentleman. My lord, he did promise to undertake it, but failing of his promise, afterwards Le Faire met him, and told him it was done; and told him

N

he should have half that reward to help to carry him off; and withal, carried him into the room where the body was. And he will tell you that Praunce was in the room when he saw him; and though he never knew Praunce before, yet when he met him in the lobby of the Lords' House, he knew him again, and charged him as the man that committed this fact. And he will acquaint your lordship, that Le Faire saw the body likewise, and gave Mr. Bedlow an account of the murder, with the same circumstances that Praunce now relates it.

Then Mr. *Bedlow* was sworn.

Recorder. Mr. *Bedlow*, pray do you direct your discourse to the Jury.

L. C. J. Mr. Attorney, pray do you ask him your questions, that you may put him in that method you would have him take, to give his evidence.

Att. Gen. My lord, I would first ask him this question: What conference he had with any persons, priests or others, about murdering any body?

Bedlow. My lord, and the Jury, I have at other times, and in other places, proved what familiarity I have had with the priests and Jesuits; and if I have not satisfied the Court and others, about it, yet I have done my duty in endeavouring so to do. My lord, I have been several times treated with, not only about the plot, but by several persons about murdering of a gentleman. They never told me who it was that was to be murdered; but if I would undertake it, they, that is, Le Faire and Pritchard, and Mr. Kaines, and several other priests, who discoursed with me about it, would find out some to assist me, and my reward should be very considerable.

L. C. J. When was this?

Bedlow. It was in October last, about the beginning, or the latter end of September.

L. C. J. Well, Sir, go on.

Bedlow. I did adhere to them all along, for I had a mind to discover two years ago, but was prevented; and I only drilled them on, to know the party, that I might prevent them. But they would never discover the party.

Att. Gen. Pr'ythee come to this particular part of the story.

Bedlow. Afterwards they set me to insinuate myself into the acquaintance of sir E. Godfrey, not telling me they had a design upon him.

L. C. J. Who did?

Bedlow. Le Faire, and Pritchard, and Welsh.

L. C. J. Girald was not one, was he?

Bedlow. No, my lord: But they told me, that afterwards they would have me introduce them into his acquaintance: And I had been, I think, six or seven days together with sir E. Godfrey, at his house; and had got much into his acquaintance.

Justice Wild. By what means did you get into his acquaintance?

Bedlow. Why, I pretended to get warrants

for the good behaviour against persons, that there were none such.

L. C. J. Well, and what then?

Bedlow. This was the week before the Saturday that he was killed; and I was there every day but Saturday: On the Friday I went to the Greyhound tavern, and I sent my boy to see if sir E. Godfrey were at home: sir E. Godfrey was not at home then.

L. C. J. When was that?

Bedlow. The very day before he was killed: If he had been at home, I would have gone over to him, and would have desired him to go over to them.

L. C. J. Were the priests there?

Bedlow. Yes, my lord, there was Pritchard, and Le Faire, and Welsh and Kaines, and another; five Jesuits: And, as I said, I sent my boy to see if he were at home, and he brought me word he was not; and if he had, I was to have gone to him, to have fetched him thither, that they might insinuate themselves into his acquaintance: And indeed they had tongue enough to wheedle themselves into any one's acquaintance: So he not being at home, we came into the city, two of the Jesuits and I.

Att. Gen. Which two?

Bedlow. Le Faire and Welsh. The next morning Le Faire came to my chamber, and I was not then within; but by accident, I met him, about four of the clock, in Lincoln's-Inn-Fields: We went to the Palsgrave's-Head tavern; where falling into discourse, he told me there was a gentleman there that was to be put out of the way, that was the phrase he used, he did not really say murder him; for they do not count it murder.

L. C. J. No, no; they put it into softer terms.

Bedlow. They told me it was to be done to-night. I asked who it was; they said it was a very material man: For he had all the informations, that Mr. Oates and Dr. Tongue had given in; that several had been employed in the doing it; that several attempts had been made, and that they had missed several opportunities, and had not done it till then; but if he should not be taken out of the way, and the papers taken from him, the business would be so obstructed, and go near to be discovered, to that degree, that they would not be able to bring this design to pass, but must stay till another age before they should effect it. I asked him again, who it was; he said he would not tell me, but it was a very material man. I told him, that according to my promise, I would assist: but in such a case, I should need a great many men to be with me, he being so considerable a person. I asked him then, where the money was, that was formerly promised? He told me no worse a man was engaged in it, than my lord Bellasis, and Mr. Coleman had order to pay it.

Justice Jones. What was the reward?

Bedlow. Four thousand pounds.

L. C. J. Who was it that first named this

gentleman to you to be sir Edmundbury Godfrey?

Bedlow. They never named him to me at all.

L. C. J. Let us know when you first knew it to be sir Edmundbury Godfrey?

Bedlow. I parted with him then, but came not according to my promise. I was to meet him at the cloisters at Somerset-house that night: but I knew their design was to murder somebody, and I would not come. I saw him no more till Monday night; then I met him in Red-Lion-Court; where he put up his cane to his nose, as who should say, I was to blame in not keeping my promise. And we went together to the Greyhound tavern in Fleet-street, where he charged me with my breach of promise. I told him I was taken up by other company, and unless they would tell me who it was I was to kill, I would have no hand in it: For I did not know but that it might be my own particular friend. And I would not murder any private person, unless I knew who it was, and for what reason. Well, says he, we will tell you more anon if you meet me to-night at Somerset-house, at nine o'clock. I did meet him exactly at that time in the cloisters, where we walked, and talked a great while. And then he took me into the middle of the court, and told me, you have done ill, that you did not help in this business; but if you will help to carry him off, you shall have half the reward. Why, said I, Is he murdered? Yes, said he. May I not see him, said I? Yes, you may, said he; and so took me by the hand, and led me into the room through a dark entry. In the room were a great many, I cannot tell who they all were.

Att. Gen. How many were there?

Bedlow. There might stand a great many behind one another. I saw four or five.

Justice Jones. What kind of a light had they, Mr. Praunce?

Praunce. It was a middle sized lanthorn.

Justice Jones. Was it a small light, or a great light?

Bedlow. It was a small light.

Justice Jones. Had they no light but that lanthorn?

Bedlow. No: And they did not open it till I had had a turn about the room.

L. C. J. Did they discourse of carrying him away then?

Bedlow. Yes, they did.

L. C. J. Did you know him, when he lay dead there?

Bedlow. Yes, your lordship shall hear how I came to know him: One stepped to the body; and threw off the thing that lay upon him, and I went and looked upon him; and he had got about his neck such a kind of a fashioned cravat as this about my neck; and I went to try, and could not get my finger in betwixt: So I saw him, his bosom was all open, and I knew him presently; for those Jesuits that were there, were not those who had employed me to insinuate myself into his acquaintance; and so

they thought I had not known him. I asked who it was, they said it was a man that belonged to a person of quality. I was mightily struck and daunted when I knew him: I would fain have persuaded them to have tied weights at his head and feet, and thrown him into the river; and afterwards I would have dragged for him, and took him up there. But they did not think that so safe: No (said they), we will put it upon himself, there are none but friends concerned. I asked Le Faire how they should get him out? They said, in a chair. Then I asked them, which way they would get him into the chair, and out of the gate? They said the porter was to sit up to let them out.

Recorder. What porter?

Bedlow. The porter of the house.

Recorder. Who, Berry?

Bedlow. Yes: As for that Hill, or the old man, I do not know that I ever had any particular knowledge of them; but only I looked upon them as ill designing men, seeing them in the chapel.

L. C. J. Did you ever see ever a one of the three prisoners there at that time?

Bedlow. No, my lord: But I have such a remembrance of faces, that I could tell if I saw them again, any that I did see there, though the light was but small. They told me, They had strangled him; but how, I did not know. When they pressed me to help to carry him out, I then excused myself, and said, it was too early to carry him out yet; but about eleven or twelve o'clock would be a better time. And I assured them I would come again. Said Le Faire to me, 'Upon the sacrament you took on Thursday, you will be at the carrying off of this man at night?' I promised him I would. And he went away, and left me there. I made what speed away I could, for I was very unsatisfied in myself; having so great a charge upon me, as the sacrament of the altar, which, after the discovery of the plot, was administered to me twice a week to conceal it. I could not tell how to discover it: I went then to Bristol, but very restless and disturbed in my mind; and being persuaded by what God was pleased to put into my mind, calling to remembrance that some murders had been already committed, and greater ones were daily intended, I was at last convinced and could no longer forbear discovery. I wrote to the secretary of it, and went to the parliament and gave in my information. And one day I met with Mr. Praunce in the lobby, and knew him, and apprehended him.

Att. Gen. I will ask you one question. Had you any discourse with Mr. Praunce between the time you saw him with the body, and the day he was apprehended?

Bedlow. No; I never saw him to this day, to have any converse with him.

Justice Wild. Did not you see Hill that night, when you were to have carried him away?

Bedlow. No, my lord.

Justice Wild. Nor Green, nor Berry?

Bedlow. Green I did see about the court, and Berry, I was told, was to open the gate that Monday night. But, my lord, when they found I did not come again, they desisted that night, and kept it off longer, for fear I should come again to stop them.

Att. Gen. He did not refuse to help them, but promised to do it, and failed: And they finding that he had failed them, would not let the body lie where it was, for fear of discovery, but removed it back again.

Justice Dolben. What did Praunce say, when you first took notice of him?

Bedlow. I understood afterwards that he was taken upon suspicion, because at that time his maid had made a discovery, that he was about that time out of his lodgings. And while he was there in the constable's hands, Mr. Oates came by, and he desired to see him; and presently after I came thither, and the constable asked him, Mr. Praunce, will you see Mr. Bedlow? No, he said, he would not: Then he put his hat over his eyes, that I might not see his face, and kept it so. The press being great, and being desirous to be private myself, I spoke to the guard to put out all that had no business there, and they cried out, that all should avoid the room; but Mr. Bedlow and his friends. And when he was going out with the rest, he lifted up his hat, to see his way; and though before I did not mind him, yet I happened at his passing by me, to cast my eyes upon his face, and presently knew him, and cried, Oh! pray, sir, stay; you are one of my friends that must stay here. And I presently charged my guards to take charge of him. Saith the constable, he is my prisoner: Is he so? said I; then you have a very good prisoner, and pray look safe to him. And then when I went into the House of Lords I made out my charge against him.

Recorder. Now if the prisoners have any questions to ask Mr. Bedlow, they may have free liberty to do it.

Hill. I never saw him before in my life.

L. C. J. Do you know any of them?

Bedlow. I know Mr. Berry and Green very well.

L. C. J. Pray, Mr. Praunce; was the dark lanthorn at Hill's lodgings, or at the other place?

Praunce. At the other place.

L. C. J. Look you here, Mr. Praunce; they carried him to Hill's on Saturday night, and he lay there till Monday night: what time on Monday night was it that they removed him into Somerset-House?

Praunce. I was not there when they did remove him.

L. C. J. What time did you see him there?

Praunce. About nine or ten o'clock.

L. C. J. What time was it that you saw him there, Mr. Bedlow?

Bedlow. It was after nine, my Lord.

Praunce. They had then removed him to Somerset-House, and Mr. Hill asked what they intended to do with the body? They said, they would carry it out that night; but they did not.

But there the dark lanthorn was, and on Tuesday night they removed him back again.

Att. Gen. Now, My Lord, if you please, we shall go on to call some witnesses that were not present at the murder; for direct evidence, as to that, came only out of the mouth of some that were concerned in it; but to corroborate, by concurrent circumstances, the testimony which hath been already given. And first we shall call the constable, to prove that he found Sir E. Godfrey in the fields, in the same manner which Mr. Praunce says they told him they left him.

L. C. J. Mr. Attorney, you promised you would prove, that when these persons were examined, they did deny before the House of Lords that they knew Praunce.

Att. Gen. My lord, in that we were mistaken: I understand now, it was only Berry denied that he did know Girald.

L. C. J. Why, did you never know Mr. Girald?

Berry. Never in my life.

L. C. J. Mr. Praunce, have not you seen Girald with Berry.

Praunce. Yes, I have, but they usually went by several names.

L. C. J. Did you ever see Girald in Hill's company?—*Praunce.* Yes, that I have.

L. C. J. Was there no centinel set that Monday night, that Saturday night, and that Wednesday night?

Praunce. My Lord, I am not certain, I took notice of none; if there were any, they were at Berry's house, and he opened the gate when we came out with the sedan.

Att. Gen. Mr. Berry, I suppose, could take order with the centinel, and give them some entertainment in his own lodge.

Then Mr. Brown the Constable was sworn.

Recorder. Pray, in what posture did you find sir E. Godfrey?

Brown. I found him my Lord, in a ditch, with his sword through him, and the end of it was two handfulls out of his back.

L. C. J. Was he bloody?

Brown. There was no blood at all, there was no blood in the ditch.

L. C. J. Was the sword sticking in his body?

Brown. Yes, my Lord, but there was no blood at all when it was taken out; they had run it into another place, but that happened to be against a rib, and so it could not go through; but there was no blood there.

Justice Jones. Were there any bruises on his breast?

Brown. He did look black about the breast.

Att. Gen. My Lord, I would ask whether his neck were broken?

Brown. Yes I suppose it was.

L. C. J. How do you know it?

Brown. It was very weak, and one might turn his head from one shoulder to the other.

L. C. J. Where was his stick and gloves?

Brown. They were on the bank-side.

L. C. J. Whose sword was it?

Brown. His servants said it was his own.

Att. Gen. Pray, had he any money in his pocket?

Brown. Yes; a great deal of gold and silver.

L. C. J. Ay, ay, for they count theft sin but not murder.

Justice Wild. They left that, to let men think he murdered himself.

L. C. J. Well, will you ask this witness any questions before he goes?

Capt. Richardson. They say they will ask him none.

Att. Gen. Then we desire to call the chirurgeons that viewed and opened the body, Mr. Skillard, and Mr. Cambridge. Both whom were sworn.

Att. Gen. We begin with Mr. Skillard: Pray, sir, inform my Lord and the Jury, did you see the body of sir E. Godfrey?

Skillard. Yes, I did view the body.

Att. Gen. When? What time did you see it?

Skillard. About twelve of the clock.

Att. Gen. What day of the week was it?

Skillard. On Friday, the next day after he was found.

Att. Gen. Did you observe his breast? How was it.

Skillard. His breast was all beaten with some obtuse weapon; either with the feet, or hands, or something.

Att. Gen. Did you observe his neck?

Skillard. Yes; it was distorted.

Att. Gen. How far?

Skillard. You might have taken the chin, and have set it upon either shoulder.

Att. Gen. Did you observe the wound?

Skillard. Yes, I did: it went in at one place and stopped at a rib, the other place it was quite through the body?

Att. Gen. Do you think he was killed by that wound?

Skillard. No; for then there would have been some evacuation of blood, which there was not. And besides, his bosom was open, and he had a flannel waistcoat and a shirt on; and neither those, nor any of his clothes were penetrated.

Att. Gen. But are you sure his neck had been broken?

Skillard. Yes, I am sure.

Att. Gen. Because some have been of opinion, that he banged himself; and his relations, to save his estate, run him through; I would desire to ask the chirurgeon what he thinks of it.

Skillard. There was more done to his neck than an ordinary suffocation; the wound went through his very heart, and there would have appeared some blood, if it had been done quickly after his death.

Att. Gen. Did it appear by the view of the body that he was strangled or hanged?

Skillard. He was a lean man, and his muscles, if he had died of the wound, would have been turgid: And then again, all strangled people never swell, because there is a sudden deprivation of all the spirits, and a hindering of the circulation of the blood.

Att. Gen. How long do you believe he might be dead before you saw him?

Skillard. I believe four or five days. And they might have kept him a week, and he never swelled at all, being a lean man. And when we ripped him up, he began for to putrify; we made two incisions to give it vent, and the liquor that was in his body did a little smell. The very lean flesh was so near turned into putrefaction, that it stuck to the instrument when we cut it.

Recorder. My lord, here is another chirurgeon, Mr. Cambridge. Pray, sir, are you sworn?

Cambridge. Yes, I am.

Recorder. When did you see the body of sir E. Godfrey?

Cambridge. Upon Friday, the very same day the gentleman did. I found his neck dislocated, and his breast very much beaten and bruised. And I found two punctures under his left pap, the one went against the rib, and the other quite through the body under the left pap.

Att. Gen. Do you believe that wound was the occasion of his death?

Cambridge. No; I believe it was given him after his death.

L. C. J. And his neck was broke?

Cambridge. His neck was dislocated, sir.

Att. Gen. Why, that is broken. Now my lord, we shall call sir E. Godfrey's maid, Elizabeth Curtis. Swear her. Which was done.

Recorder. Your lordship knows, that Mr. Praunce did say in the beginning, that they had been several times at his house, enquiring for him: Now we call this person to tell you what she knows about that.

Att. Gen. Elizabeth Curtis, look upon the prisoners, and tell my lord, and the Jury whether you know any of them or no.

Eliz. Curtis. This man that I now hear called Green, my lord, was at my master's about a fortnight before he died.

L. C. J. What to do?

Eliz. Curtis. I do not know, but he asked for sir E. Godfrey.

L. C. J. What time of the day was it?

Eliz. Curtis. It was in the morning.

Att. Gen. What did he say?

Eliz. Curtis. He asked for sir E. Godfrey, and when he came to him, he said, Good morrow, sir, in English, and afterwards spoke to him in French, I could not understand him.

Recorder. I desire she may consider well; look upon him.

Eliz. Curtis. That is the man.

Green. Upon my soul, I never saw him in all my life.

Eliz. Curtis. He had a dark coloured periwig when he was there, and was about a quarter of an hour talking with my master.

Att. Gen. Are you sure this was the man?

Eliz. Curtis. Yes, I am; and that other man, Hill, was there that Saturday morning, and did speak with him before he went out.

L. C. J. That you will deny too?

Hill. Yes, I do.

L. C. J. How do you know he was there?

Eliz. Curtis. I was in the parlour at that time, making up the fire.

E. C. J. Had you ever seen him before that time?

Eliz. Curtis. No, never before that time. I went into the parlour to carry my master's breakfast, and brought a bunch of keys with me in, and there Hill was with him. And I went up stairs about some business, and came down again, wanting the keys, which I had left upon the table, and Hill was all that time with my master.

Sol. Gen. How do you know he was there?

Eliz. Curtis. I was in the parlour, and stirred up the fire, and he was there a good while.

Justice Jones. How long after did you see him again?

Eliz. Curtis. Not till I saw him in Newgate.

Justice Jones. How long was that afterwards?

Eliz. Curtis. A month ago. But it is not the man that brought the note to my master.

Att. Gen. What note?

Eliz. Curtis. A note that a man brought to my master that night before.

Att. Gen. What is become of that note?

Eliz. Curtis. My lord, I cannot tell, my master had it.

Att. Gen. Pr'ythee tell us the story of it.

Eliz. Curtis. There was a man came to my master's house, and asked if sir E. Godfrey were within. He said he had a letter for him; and shewed it me; it was tied up in a knot. I told him my master was within, but busy; but, said I, if you please, I will carry it in to him. He did so, and I gave it to my master; when I went out again, the man stayed and asked for an answer: I went in again, and told my master, that the man required an answer. Pr'ythee, said he, tell him, I don't know what to make of it.

Justice Wild. When was that?

Eliz. Curtis. On Friday night.

Justice Wild. When? The Friday night before he was murdered?

Eliz. Curtis. Yes.

Att. Gen. But you swear, that Hill was there the Saturday morning.

Eliz. Curtis. Yes, he was.

Sol. Gen. In what clothes was he then?

Eliz. Curtis. The same clothes that he hath now.

Justice Wild. Are you sure they are the same clothes? *Eliz. Curtis.* Yes.

Sol. Gen. Here is a great circumstance, my lord. I asked her what clothes he was in, when he came to sir E. Godfrey's? and she saith the same that he hath now.

L. C. J. Have you ever shifted your clothes?

Hill. No, indeed, I have not.

Eliz. Curtis. But for the man that brought the note, I cannot swear it is he.

Hill. But she did say, when she came to see me in Newgate, that she never saw me in my life; and, my lord, I hope I have sufficient witnesses to prove where I was that morning.

L. C. J. She says, she cannot swear you were the man that brought the note.

Hill. My lord, I desire she will tell me about what time it was I was there.

Eliz. Curtis. It was about 9 or 10 o'clock.

Att. Gen. That agrees with Mr. Praunce's exactly in point of time. Now, if your lordship please, we will proceed, and call Mr. Lancelot Stringer, and Mr. Vincent.

Recorder. My lord, we do call these witnesses to prove, that these men had meetings with Mr. Praunce at the Plow.

Then was Lancelot Stringer sworn.

Recorder. Pray tell my lord and the jury, whether you know Mr. Praunce.

L. Stringer. Yes, sir, I do.

Recorder. Have you seen him at the Plow at any time?—*L. Stringer.* Yes, sir, I have.

Recorder. In what company there? Was Mr. Green there?

L. Stringer. Yes, he was.

Recorder. Which was he? [He points to him.]

Recorder. And who else?

L. Stringer. There was that Hill.

Att. Gen. How often?

L. Stringer. Several times.

L. C. J. How long before sir E. Godfrey was murdered?

L. Stringer. I cannot tell, my lord.

L. C. J. Do you remember any other company was with him?

L. Stringer. Yes, there were several other company.

Recorder. Name them.

L. Stringer. There was Mr. Fitz-Girald and Mr. Hill.

Att. Gen. And yet Hill saith, he never saw Girald.

L. Stringer. And there was Kelly, he was another of them, and Praunce.

L. C. J. Did you know Vernatt?

L. Stringer. Yes, my Lord.

L. C. J. How now? What say you to it, Mr. Hill, and Mr. Green? Were you never at the Plow, drinking with Mr. Praunce?

Hill. Yes, my Lord, several times.

L. C. J. What say you, Mr. Green?

Green. I have drank with him there.

L. C. J. Do you know Girald?

Hill. I know one Girald.

Sol. Gen. Now will your lordship please to let me prove, that at the council he owned he knew Girald and Kelly, and now it is proved he hath been in Kelly's company, he says he does not know Girald.

Hill. My lord, That was a mistake, for I do know Kelly by sight; that is, I knew two men that used the chapel very much, and he was one of them.

L. C. J. But you, witnesses, say you have seen Girald and them together?

L. Stringer. Yes, I have.

L. C. J. How many times?

L. Stringer. I cannot tell how many, my lord; several times.

L. C. J. Have you seen them twice together?

L. Stringer. Yes, I have.

Recorder. Now to settle it, I would ask him, with your lordship's favour, when he came to live with his master. You, young man, when did you come to live with your master at the Plow?

L. Stringer. Why, I have been with him two years.

Recorder. But when was it you came last to live at the Plow?

L. Stringer. In Bartholomew-tide last.

Recorder. It was but five weeks before Sir Edmundbury Godfrey was murdered.

L. C. J. Do you, Green, know Mr. Girald?

Green. Yes, I do.

Recorder. Then pray swear Mr. Vincent. Which was done.

Recorder. Come, pray sir, do you live at the Plow?

Vincent. Yes, Sir, I do.

Recorder. Then pray, do you tell my lord and the jury, if you know any of the prisoners at the bar, and which of them.

Vincent. I know Mr. Green.

Recorder. Do you know any body else?

Vincent. Yes, I know Hill, and I know Berry.

Recorder. Have you seen these persons at your house?

Vincent. Yes, I have.

L. C. J. With whom?

Vincent. I can't tell every body with whom they were.

L. C. J. Were they there with Praunce?

Vincent. Yes, Sir.

L. C. J. Did you know one Girald?

Vincent. Yes, Sir.

L. C. J. Hath he been at your house?

Vincent. Yes, Sir, he hath.

L. C. J. Who was with him?

Vincent. I can't tell justly.

L. C. J. Did you know Kelly?

Vincent. Yes, I did.

L. C. J. Hath he been there?

Vincent. Yes, he hath.

L. C. J. In what company?

Vincent. With Praunce.

L. C. J. And with any of the prisoners?

Vincent. Yes, but I can't tell particularly with whom.

Att. Gen. Now, my lord, as these were meetings before the fact was committed, to consult how to do it; so we at the beginning told you of a meeting after it was done, and that it was at Bow. We shall therefore call some witnesses as to that; and they are Richard Cary, and William Evans. First swear Richard Cary. Which was done.

Recorder. Do you remember you were sent of a message from the Queen's-Head at Bow, and whither? Pray tell my lord and the Jury.

Cary. I remember it very well; there were three gentlemen that sent for me to the Queen's Head, and I being sent for did come; and when I came up stairs, they asked me if I knew Poplar; I said, I knew it very well.

Then they asked me, if I knew Mr. Dethick; I told them I thought I did. Then said they you must carry this letter to George Dethick, esq. at Poplar, and deliver it to his own hands, and to nobody else. Accordingly away I went and carried the letter; I went to the door, and asked if he were within; his man said he was above stairs, but they would call him to me; and calling him to me, Sir, said I, there are some gentlemen at the Queen's-head at Bow, that have sent me with a letter to you. So he looked upon the letter, and, saith he, go and tell them I will be with them presently. So, may it please you, my lord, I came again, and when I came, the gentlemen were there still. Well, said they, go and drink a glass of claret, which stood upon the table, and they gave me six-pence, and I went away.

Recorder. Pray look upon Mr. Praunce, can you remember whether that man was there?

Cary. There were three of them, and he looks like one.

Recorder. Mr. Praunce, do you remember this was the man you sent?

Praunce. Yes, my lord, this was the same man that was sent.

L. C. J. Well, call the other.

Then William Evans, the boy of the house at the Queen's-head, was sworn.

Recorder. Hark you, do you remember any company that was at your master's house two or three months ago?

W. Evans. Yes, I do.

Recorder. Do you remember that you heard them talk any thing there?

W. Evans. They pull'd out a paper, and read it.

L. C. J. You boy, do you know Mr. Dethick?

W. Evans. Yes, I do.

L. C. J. Was he there?

W. Evans. He did come to them, my lord.

Recorder. What had they to dinner there?

W. Evans. They had flounders.

Recorder. Who bought them?

W. Evans. One of them, I can't tell who.

Recorder. What had they else?

W. Evans. A barrel of oysters.

Recorder. Pray give my Lord an account what you observed and heard.

W. Evans. Sir, I know nothing but that they pulled out a paper and read it, and named sir E. Godfrey's name. And while I was at the door, somebody threatened to kick me down stairs.

L. C. J. He saith just as Mr. Praunce said in every particular.

Att. Gen. Now if it please your lordship, we desire to call sir Robert Southwell, to prove what Mr. Praunce said before the council, and how particular he was; and did, to some of the Lords who were sent with him to Somerset-house, point out the places.

Sr. Gen. We call him to shew, that when

Praunce was examined before the king, he was sent with some of the Lords, and sir Robert Southwell, to Somerset-House, where he pointed with his finger, and shewed the places where all was done; so we shall shew your lordship and the jury, how exact he was in every thing.

Then Sir Robert Southwell was sworn.

Recorder. Pray, Sir Robert, will you tell your knowledge?

Sir R. Southwell. My Lord I was upon the 24th of December waiting upon his majesty in council, and Mr. Praunce was sent for, to speak his knowledge concerning this murder, and he then gave a general account of things, which, because it did relate to that bench, and this corner, and that room, and that passage and that gallery, it was not understood by the board, and thereupon his majesty thought fit to appoint my lord duke of Monmouth, and the earl of Ossory, and Mr. Vice-Chamberlain to the queen, to go thither, and take the examination upon the place, and report it to the board: and I, being clerk of the council, though not in waiting at that time, and having taken notice of what Mr. Praunce had there deposed, I did wait upon those Lords, and took the examination upon the place. And what I did take upon the place, This was done here, and that there, I drew up into a report, and the report is signed by those two noble lords, and was read that afternoon at the board; and to that I refer myself.

Att. Gen. Pray, Sir Robert, Did he shew the particular places to those Lords.

Sir R. Southwell. Yes, he did. First, the bench whereon they were sitting when sir E. Godfrey was coming down; then the corner into which they drew him when they had strangled him; then the place where one Berry went to stay, which was at the stairs that lead to the upper court; then a little door at the end of the stables, which led up a pair of stairs, and at the head of the stairs a long dark entry, and at the top of those stairs, a door on the left hand, which being opened, shewed us eight steps, which lead up to the lodgings that were Mr. Godwin's; in which Hill was said to be inhabitant for seven years before. And as soon as we were gone two steps, there was a little closet or cabinet on the right hand, in which there was a bed, and there he shewed my Lords, This is the place where we handed him up first, and here we left him, said he, in the care of Hill for two nights.

Just. Wild. You were there, Sir Robert, upon the place, when he shewed them these things?

Sir R. Southwell. Yes, Sir, I was there.

Just. Wild. Was it answerable to what he had declared to the king and council?

Sir R. Southwell. Yes, it was answerable to all things he had said in the morning.

Just. Jones. And suitable to what he says now?

Sir R. Southwell. Yes, suitable to what he

says now, but only now he says more than he said then. And as to what he says about the chambers of sir John Arundel, they could not be sir John's lodgings, for they were not capable of receiving a person of that quality.

Praunce. I said, I did believe they did belong to sir John Arundel.

L. C. J. They were lodgings, perhaps, that belonged to his servants, though not to him.

Att. Gen. Sir Robert, I desire to know, whether Mr. Praunce, when he shewed these places, and made these descriptions, did he do it with any hesitancy, or did he do it readily?

Sir Robert Southwell. Hitherto, my lord, he went directly and positively, as if any body should walk to Westminster-hall door. But afterwards, when the lords did desire to know whither the body was carried, he said, it was into some room of the house by the garden; for this is an outer part of the house, which any body may do any thing in, without their knowledge that are within. And he undertook to lead them to the place as well as he could; and so away we went through the long dark entry that leads into the outer court of the great house; and crossing the quadrangle, he leads us to the Piazza, and down a pair of stairs, and so far, said he, I am sure I went; then, as soon as we were down stairs, there is a great square court, then he began to stagger, as if he did not know his way; but there was no way but to go on, however, and on he went, and coming cross the court, we came into several rooms; and going through them we came up stairs again, and so into several other rooms again. Sure, said he, we were here, but I can't tell, and he was in a distraction what room he saw the body in; but, said he, thus far I am certain I am right; which was according to the paper, and I refer myself to that.

Justice Wild. But you say, that what he had said to the lords in the council, was the same that he said when you were by upon the place? *Sir Robert Southwell.* Yes.

L. C. J. His doubtfulness of the room does assert and give credit to his testimony, and confirms it to any honest man in England. Here, saith he, I will not be positive, but having sworn the other things which he well remembered, positively, he is made the more credible for his doubtfulness of a thing which he does not remember, which a man that could swear any thing would not stick at.

Justice Jones. Besides, he was not there but by night, and all the light he had was a dark lantern.

Sol. Gen. Now, sir Robert, I would ask you one question, if you please. Do you remember that Hill was examined at the council about this matter?

Sir Robert Southwell. My lord, these are the notes that I took upon these men's examinations, if your lordship pleases they may be read.

Recorder. Sir Robert, we ask you but as to one particular thing, therefore if you please to look upon it, and refresh your memory, you may

read it to yourself, and tell us only the substance. Which he did.

Sol. Gen. Now, sir, if you please, do you remember that Hill was there?

Sir Robert Southwell. Yes, I find he was examined.

Sol. Gen. Did not he deny there that he knew Kelly, but that he knew Girald?

Sir Robert Southwell. Yes, I do find it here set down, that he did deny he knew Kelly, but that he knew Girald.

Hill. I said I knew one Girald, but not that.

Recorder. But before the council he said he knew Girald, not one Girald.

L. C. J. This way of answering is like the examination that was taken lately amongst some of them. A person was asked when he saw such a priest? He denied that he had seen him in fourteen days. But then comes one and proves to his face, that he was with him in company all night, within a week and less. Ay, says he, that is true; but I said I had not seen him in fourteen days. And so they may take oaths to serve the king faithfully all the days of their lives, but in the nights they may murder him, and keep their oaths for all that.

Justice Dolben. I would know, whether the Girald you know be a priest or no?

Hill. He is not.

Justice Dolben. Then you do not know Girald the priest?—*Hill.* No I do not.

Recorder. Call Mr. Thomas Stringer. And he was sworn.

Recorder. Pray, Mr. Stringer, will you tell my Lord and the jury what it was that Mr. Berry said about any directions he had to keep all persons out of Somerset-house, about the 12th or 14th of October last?

T. Stringer. My Lord, Upon his examination before the Lords of the committee, Berry did say he had orders from the queen, or in the name of the queen, that he should suffer no strangers nor any persons of quality to come into Somerset-house.

Att. Gen. When was it he was to keep them out?

T. Stringer. The 12th, 13th and 14th of Oct. last.

Att. Gen. What, three days?

T. Stringer. Two or three days. And he said that the prince did come and he did refuse him, and sent him back again.

Recorder. Did he say he ever had any such directions before?

T. Stringer. No: He said he never before had any.

L. C. J. It was a very unlucky thing that he had it then.

Berry. The prince might have gone in if he would.

T. Stringer. You said you did refuse him, you had order to let none come in.

L. C. J. Had you any such order?

Berry. Yes my Lord, I had such an order from the queen's gentleman-usher.

L. C. J. Had you never had such before?

VOL. VII.

Berry. Yes, I have had before, since the queen came to Somerset-house.

L. C. J. Mr. Stringer swears you said you had not any before.

Berry. Yes I had.

L. C. J. Why did you deny it then?

Berry. I did not deny it; besides, there were several went in.

Recorder. We have proved, indeed, five or six did go in.

L. C. J. For how many days had you that order?—*Berry.* Two days.

L. C. J. Which two days?

Berry. The 11th and 12th, I think there in-louts.

Recorder. Did you say before the Lords, that you never had such orders before?

Berry. No, I did not.

L. C. J. Mr. Berry, When you were examined before the lords, did you not say you never had such orders before?

Berry. No, I did not say so, my lord, as I know of; for they did not examine me about that.

L. C. J. You said you would prove it under his own hand. Prove that.

Att. Gen. Mr. Stringer, did he write his name to his examination?

T. Stringer. Yes, he did to one examination.

Att. Gen. Pray look upon that: is that his hand?

T. Stringer. This was read to him before he signed it, and then he did sign it.

Att. Gen. I would fain shew it to him; to see whether he would own it or no.

Berry. Yes, that is my hand.

Then the Clerk of the Crown read it.

Cl. of Cr. This is subscribed by Henry Berry. "The Information of Henry Berry, porter at the gate of Somerset-house; taken before the right hon. the Marquis of Winchester: This deponent saith, that about the 12th, 13th and 14th of October last, he had order to tell all persons of quality, that the queen was private, and that they were not to come in; and this deponent saith, the queen continued so private for two days."

L. C. J. Where is that part of the examination wherein he said, he never had any such order before?

T. Stringer. He did say so, but it is not in that that hath his hand to it.

Justice Wild. Pray, my lord, observe this is a kind of reflecting evidence, and I would have no more made of it than the thing will bear.

L. C. J. They only bring it, and make use of it against Berry as a pretence of his.

Justice Wild. But it is a very reflecting evidence.

Att. Gen. Surely there is no body here that offers it as such: We use it only to this purpose, to shew that Berry, who was a party to this murder, did use all the means that he could to keep it private; and endeavoured to prevent strangers coming in that night to discover it; and therefore pretended these orders.—If he had any such orders, I suppose he will prove

O

them, we do not say he had them; but it is a great evidence, when he pretended to such privacy, that he and his fellows had something to do that was not fit to be known by every body.

Recorder. He may make use of any body's name, and pretend what he will; but I suppose he will prove it from the gentleman-usher if it be true.

Att. Gen. We have one witness more to call, my lord, and that is one Farr. Call Stephen Farr. Which was done, and he sworn.

Att. Gen. He is a neighbour to Berry, and will give your lordship an account what applications have been made to him, to tamper with him for money, to keep away, and not give evidence in this cause. Pray, sir, are you Mr. Berry's neighbour?

Farr. Yes, Sir, I am.

Att. Gen. Pray then tell what you know.

Farr. I know him very well, his wife hath been with me last week, and asked me if I knew what time he was with me on Wednesday the 16th of October. I desired time to recollect myself: and she called four or five times after, and I did recollect my memory and told her, that I was not with him all that Wednesday.

L. C. J. Why, this was reasonable, and fair enough to do.

Att. Gen. It was so, my lord; but pray had you no money offered you?

Farr. No, Sir, none at all; and I told her I could not remember that I was with him that day.

Berry. But you may remember it very well when I came from the queen I came to you.

Farr. My Lord, I was out of town that Wednesday, from two o'clock in the afternoon till nine at night.

L. C. J. Well, well, this is nothing: the woman was willing, if she could, to have counterproved the evidence, and what she did was fair; she offered no money, nor did it in an indirect way.

Att. Gen. My lord, we have now done with our evidence for the king, and leave it till we hear what they say.

L. C. J. What do you say for yourselves? you shall have all the free liberty you will desire.

Hill. In the first place, I take God to be my witness, that I am wholly innocent, as to the matter that is charged upon me: and as to what is said that I dogged sir E. Godfrey, I can prove that I went into my lodging at eight o'clock, and did not stir out.

L. C. J. Come, call your witnesses.

Hill. Mary Tilden, Catharine Lee, Mrs. Broadstreet, and Daniel Gray.

L. C. J. Let them come in there.

Then Mary Tilden was first examined.

Att. Gen. This is Dr. Godwin's niece, and his housekeeper.

L. C. J. Well what do you ask her?

Hill. I desire to know what you can say about my being in my lodging, and not going out.

Mary Tilden. He hath lived in our family 7 or 8 years.

L. C. J. Your family; what is your family?

Mary Tilden. With my uncle.

L. C. J. Who is your uncle?

Mary Tilden. Dr. Godwin: we left him in the house always, when we were absent from it; he was always a trusty servant, never kept ill hours, always came home by eight o'clock at night.

Justice Dolben. Alway! for how long?

Mary Tilden. Ever since we came over last into England.

Justice Dolben. When was that?

Mary Tilden. In April last.

L. C. J. Were you there that night sir E. Godfrey was killed?—*Mary Tilden*. I was.

L. C. J. What night was that?

Mary Tilden. I do not know, my lord, I heard of it in the town.

L. C. J. When did you first hear of it?

Mary Tilden. The Thursday that he was found.

L. C. J. Did you not hear of it on the Wednesday?

Mary Tilden. Yes I did.

L. C. J. Who could tell you the Wednesday before?

Mary Tilden. Why, my lord, in the town it was said he was missing from Saturday, and a Thursday he was found.

L. C. J. What can you say concerning Hill, that he was not out after eight o'clock that night?

Mary Tilden. He was a very good servant to my uncle, and never kept ill hours, but always came in by eight o'clock, or before.

Justice Dolben. Were you not out yourself that night?

Mary Tilden. No not I, never out after that hour.

L. C. J. Pray how can you give such an account of Mr. Hill, as if he was always in your company?

Mary Tilden. He came in to wait at table, and did not stir out afterwards.

L. C. J. Pray, what religion are you of? are you a papist?

Mary Tilden. I know not whether I came here to make a profession of my faith.

L. C. J. Are you a Roman Catholic?

Mary Tilden. Yes.

L. C. J. Have you a dispensation to eat suppers on Saturday nights?

Recorder. I hope you did not keep him company, after supper, all night.

Mary Tilden. No, I did not, but he came in to wait at table at supper.

L. C. J. I thought you had kept fasting on Saturday nights.

Mary Tilden. No; my lord, not on Saturday nights.

Justice Jones. How many dishes of meat had you to supper?

Mary Tilden. We had no meat, though we did not fast.

L. C. J. Can you speak positively as to this night, the Saturday that he was killed?

Mary Tilden. He was at home that night.

L. C. J. And where was he the Sunday?

Mary Tilden. He was at home.

L. C. J. And you are sure he was at home every night?

Mary Tilden. Yes, while we were in town.

L. C. J. Where was you all that Wednesday night you speak of?

Mary Tilden. I was at home in my lodging.

Justice Wild. How it is possible for you to say, that Hill, who was not your constant companion, did not go out afterwards?

Mary Tilden. No, he was not my constant companion.

Justice Wild. How then can you charge your memory that he was at home?

L. C. J. Come, you are to speak truth, though you are not upon your oath. Can you charge your memory to say that he came in constantly at eight o'clock at night?

Mary Tilden. Yes, I can, because I saw him come in constantly; and when he came in, I always sent my maid to bar the door.

L. C. J. Maid, can you say he was always at home at night?

Mary Tilden. I can say he never was abroad after eight at night.

Recorder. Why, you did not watch him till he went to bed, did you?

Mary Tilden. We were always up till eleven o'clock at night.

Att. Gen. Was he in your company all that while?

Mary Tilden. I beg your pardon: if your lordship saw the lodgings you would say it were impossible for any to go in or out, but that they must know it within. We were constant in our hours of going to supper; our doors were never opened after he came in to wait at supper.

L. C. J. You may say any thing to a heretic, for a papist.

Justice Dolben. This is a mighty improbable business.

Justice Wild. Where was he a Wednesday night?—*Mary Tilden.* At home.

L. C. J. They have a general answer for all questions.

Justice Jones. Who kept the key of your lodgings?

Mary Tilden. The maid.

Justice Jones. Hath Hill never kept the key?

Mary Tilden. No, my lord, the maid.

Justice Jones. How do you know but that the maid might let him out?

Praunce. My lord, Mrs. Broadstreet said at first there was but one key; but before the duke of Monmouth she said there were six or seven keys.

L. C. J. Look you what tricks you put upon us to blind us: you come and tell us that he was every night at home by eight o'clock, and did not stir out, for there was but one lock, and the maid kept the key; and yet there were three or four keys to it.

Mary Tilden. There was but one key to that which kept the door fast.

L. C. J. Praunce, how many keys were there?

Praunce. She confessed there were four or five.

Justice Wild. What time was it that you carried him out of Somerset-House on Wednesday night?

Praunce. It was about ten or eleven. Hill went to fetch the horse.

Mary Tilden. We had never been out of our lodgings after eight o'clock, since we came to town.

Justice Jones. When were you out of town?

Mary Tilden. In October.

Justice Dolben. Nay, now mistress, you have spoiled all; for in October this business was done.

Justice Jones. You have undone the man, instead of saving him.

Mary Tilden. Why, my lord, I only mistook the month.

L. C. J. You woman [speaking to Mrs. Broadstreet], what month was it you were out of town?

Broadstreet. In September.

L. C. J. It is apparent you consider not what you say, or you come hither to say any thing will serve the turn.

Mary Tilden. No, I do not, for I was out of town in September, came to town the latter end of September.

L. C. J. You must remember what you said, that you came to England in April last, and from that time he was always within at eight o'clock at night.

Mary Tilden. Except that time we were out of town, which was in September, the summer-time. And it is impossible but if the body was in the house, as Praunce said it was, but I must see him, or some of us must. I used to go every day into that little room for something or other, and I must needs see him if he were there.

L. C. J. You told me just now you were not upon confession; and I tell you now so, you are not.

Then Mrs. Broadstreet was examined.

Justice Jones. Well, woman, what say you?

Broadstreet. We came to town upon a Monday, Michaelmas day was the Sunday following; and from that time neither he nor the maid used to be abroad after eight o'clock: we kept very good hours, and he always waited at supper, and never went abroad after he came in to wait at supper: and the lodging was so little, that nothing could be brought in but they must know that were within.

L. C. J. This is a lower room than the chamber, is it not?

Praunce. It is even with the dining-room, my lord.

L. C. J. What say you, sir Robert Southwell?

Sir R. Southwell. My lord, it is an extraordinary little place; as soon as you get up eight steps, there is a little square entry, and

there is this room on the one hand, and the dining-room on the other. I think, there is a pair of stairs to go down at one corner of the entry, as I think, but the body was laid in a little square room at the head of the steps.

L. C. J. And must you go into the room to go to the dining-room?

Broadstreet. No, it is a distinct room; but the key was always in the door, and every day somebody went into it for something or another.

L. C. J. Will you undertake to say it was always in the door?

Broadstreet. Yes, it constantly was.

Justice Wild. For my own part, I will not judge you: but that his body should be carried there about nine o'clock at night a Saturday night, and remain there until Monday night, it is very suspicious, that if you were in the house, as you say you were, and used to go into that room every day, you must either hear it brought in, or see it.

Broadstreet. But we did neither, my lord.

Justice Dolben. It is well you are not indicted.

Broadstreet. Mr. Praunce, you know all these things to be false, Mr. Praunce.

Praunce. I lay nothing to your charge; but you said before the duke of Monmouth, that Hill was gone from his lodgings before that time.

L. C. J. What say you, sir Robert Southwell?

Sir R. Southwell. There arose a little quarrel between them, about the time that Mr. Hill did leave those lodgings. Praunce said it was a fortnight after; Hill said, when he was upon his examination, that the same Saturday night that sir E. Godfrey was missing, he was treating with his landlord, and from that time, to the time he went to his new house, it was about a week or a fortnight.

L. C. J. But he did pretend he was gone before?

Broadstreet. No, my lord, I did not.

L. C. J. Two witnesses upon oath swear it, and you said it yourself, and gave it under your hand.

Broadstreet. My lord?—

L. C. J. Nay, you will not hear, but you will talk; you say one thing now, and you set another under your hand.

Att. Gen. Have you not a brother that is in the Proclamation, one Broadstreet a priest?

Broadstreet. I have a brother, whose name is Broadstreet.

Att. Gen. Is he not a priest, and in the Proclamation?

Broadstreet. I hope I must not impeach my brother here. I said upon my oath, he came to town on Monday, and Michaelmas day was the Sunday following, and Lawrence Hill went away a fortnight after.

Sir R. Southwell. She swore then, two or three days after Michaelmas day.

L. C. J. You must know we can understand you through all your arts. It was not conve-

nient for you at that time to say, that Mr. Hill went away about a fortnight after Michaelmas, for then the thing that was charged to be done, part of it in your house, would have been within the fortnight, for it was the 12th of October, but then you said only two or three days.

Sir R. Southwell. She did say, my lord, that about Michaelmas two or three or four days after he went away.

Broadstreet. I beg your pardon, I only said, I could not tell the time exactly.

L. C. J. Well, have you any more to say?

Mary Tilden. There was never a day but I went into that room for something or other, and if any body came to see me, there was so little space that the footmen were always forced to be in that room.

Justice Dolben. Were you there upon Sunday?

Mary Tilden. Yes, my lord, I was.

Justice Dolben. Well, I will say no more; call another witness.

Hill. Catharine Lee.

L. C. J. What can you say, maid?

Lee. My lord, I did never miss him out of the house at those hours.

L. C. J. May be you did not look for him.

Lee. I did go down every night to the door, to see if it were locked, and I went into the parlour to see that things were safe there.

L. C. J. You are a Roman Catholic, are you not?

Lee. Yes, I am.

Justice Dolben. Might not he go out of the house, and you never the wiser?

Lee. Yes, for I did not watch him continually.

Capt. Richardson. All that she says may be true by the place. The servants keep down a pair of stairs in the kitchen, and any one may come in, or go out, having so many keys, and they not know it that are below.

Lee. I went into the chamber every morning, as I went to market.

Justice Wild. Have a care what you say, and mind the question I ask you: were you there on the Sunday, in that room where they say sir E. Godfrey's body was laid?

Lee. I cannot say, that I was in that room, but I called in at the door every day, and I was the last up every night.

Justice Wild. I will say that for thee, thou hast spoke with more care than any of them all.

Then *Daniel Gray* was examined.

L. C. J. What can you say? What questions do you ask him?

Hill. I desire him to speak what he can say, where I was those five days that sir E. Godfrey was missing.

Gray. I kept my brother Hill company, from the 8th of October, till he took his house, which was about the 22nd or 23rd.

L. C. J. What time did you use to go to bed?

Gray. About 9 or 10 o'clock at night.

L. C. J. What time did he go?

Gray. When I did, but I did not see him go to bed.

L. C. J. Where did you lie?

Gray. At my own house.

L. C. J. And you went home about 8 or 9 at night to go to bed?

Gray. Yes, I did.

Just. Jones. You say he took his house the 8th of October, when did he go thither?

Gray. Yes, he took his house the 8th of October, but he did not go thither till the one or two and twentieth.

Just. Dolben. But you cannot tell what he did at night?

Gray. No, not I.

Just. Dolben. But you were in his company till 8 or 9 o'clock at night?

Gray. Yes, my lord, I was.

L. C. J. How far did you live off of him?

Gray. About a bow's shoot.

L. C. J. Look you, Mr. Hill, he does you no service at all, for he says he left you about 8 or 9 o'clock at night, and he does not know what you did afterwards. Have you any more?

Hill. Robert How.

L. C. J. Come, what say you?

How. My lord, I met with Mr. Hill the 5th of October, he asked me whither I was going? I told him, home. I wish, said he, you would go a little back with me; I am about taking of an house, and I would have you view the repairs; accordingly we did go, and treated in the house about an agreement; for, said he, I will not agree with you (to the landlord) till we know what must be repaired. On Tuesday morning we met again, about 8 o'clock.

L. C. J. What day of the month was that?

How. The 8th. And a Wednesday about noon we began to work for him, to repair his house, and we wrought that week every day, and for 12 days and an half in all, and he was every day with us, looking after coals, or beer, or something. On Saturday the 12th of October, we dined together, and parted with him about 1 or 2 o'clock, and about 2 o'clock I went back again to my work, and he said he was going towards Covent-Garden in St. James's, but he came back again, and I was gone first; I asked my man whether he was gone, or no; he said, he was there, but did not stay.

L. C. J. What time was that?

How. A little before night.

L. C. J. What hour did your man say that he was there?

How. About an hour before they left work.

L. C. J. What time was that?

How. About four o'clock, I think it was.

L. C. J. Can you say where he was that night?

How. No, I cannot.

L. C. J. What religion are you of, are you not a protestant?

How. Yes, my lord, I think so.

Recorder. My lord asks you, are you a protestant?

How. I was never bred up in the protestant religion.

Praunce. He is a catholic, my lord, he was the queen's carpenter.

Just. Dolben. Nay, now you spoil all; you must do penance for this; what! deny your church?

Hill. What time was it on Saturday morning I was with you?

How. About nine o'clock.

L. C. J. How long did he stay?

How. From nine to two.

L. C. J. Are you sure it was nine?

How. No man can swear punctually to an hour.

L. C. J. What think you of ten?

How. It was thereabouts.

Recorder. If I am rightly informed by the clerks, he is outlawed for recusancy.

L. C. J. Is he so? Pray let us know that.

Harcourt. (One of the clerks of the Crown-Office.) My lord, I have made out several writs against him, for several years together, and could never get any of them returned.

Hill. He tells you, that I was with him from nine o'clock on Saturday morning, till one.

Just. Jones. But that is but as true as he is a protestant, and how true that is, you know.

Hill. Here is another witness; Mr. Cutler.

Tho. Cutler. Upon the 12th of October, Lawrence Hill did come into my house, about four or five o'clock in the evening, and he staid there till between seven or eight, and then his wife came for him and said some gentlewoman was ready for her supper, and so he went home; and I saw him no more, till the day after he was taken.

L. C. J. Look you here, he speaks only about seven or eight o'clock. Well, have you any thing more to say?

Hill. There is one Richard Lazineby.

Lazineby. My lord, I was with him on Saturday the 12th of October, at the door, about twelve o'clock.

L. C. J. And you dined with him and How?

Lazineby. Yes, Sir.

L. C. J. But you did not see him afterwards?

Lazineby. Yes, I did see him on Wednesday night, from five to seven at night.

L. C. J. What time was he carried out of Somerset-House?

Att. Gen. About eleven or twelve o'clock at night.

Lazineby. That is the last time I was with him.

L. C. J. Well, have you any more?

Hill. Here is one Mr. Archbold, my lord.

Archbold. My lord, I had occasion for a tailor, and I came to this man's house to seek for one Mr. Gray, that had formerly wrought for me.

L. C. J. When was that?

Archbold. That was on Monday night. And he having formerly wrought for me, I found him at this man's house; so Mr. Gray asked me, what news? I told him, very good news; for Praunce was taken for the murder of sir E.

Godfrey. Says Hill, I am glad of that; I wish they were all taken. I came the next day after, and they told me he was taken out of his bed, for the murder of sir E. Godfrey.

L. C. J. Was it that very night that you came, that he was taken?

Archbold. Yes, it was.

L. C. J. You said he spoke of it before you at 7 o'clock, and you left him about 9, and he was taken that night; what then?

Hill. Why, then I had time enough to make my escape, if I had thought myself Guilty.

L. C. J. As no doubt you would, if you had thought they would have been so nimble with you.

Archbold. He knew it the day before.

L. C. J. Well, have you any more to say?

Mrs. Hill. There is Mr. Ravenscroft, my lord.

L. C. J. What, that Ravenscroft that was sent away?

Mrs. Hill. Yes, my lord.

L. C. J. Then the marshal must send for him, if he be a witness for the prisoner. In the mean time, what can you say for yourself, Mr. Green?

Green. My lord, I would call my landlord and his wife.

L. C. J. What are their names?

Green. James Warriar, and his wife.

L. C. J. Call in Green's wife, and all her witnesses.

[Then Mrs. Hill, the Prisoner's wife, offered a Paper to the Court containing Observations upon the Indictment, which she desired them to read; but it was refused, and she bid to give it her husband.]

Then James Warriar was examined.

L. C. J. What say you to your landlord?

Green. I ask him no questions at all, but desire him to tell what he knows.

Warriar. I will say, that the 12th of Oct., he was at my house, half an hour after seven, and he was not out of my house till after ten.

L. C. J. How can you remember that day? What day of the week was it?

Warriar. It was a Saturday.

L. C. J. How do you remember it was so?

Warriar. I have recollected my memory.

L. C. J. By what?

Warriar. By my work, and every thing exactly.

L. C. J. When did you begin to recollect yourself?—Warriar. A pretty while ago.

L. C. J. How long after sir E. Godfrey was murdered?—Warriar. A month after.

L. C. J. What made you recollect yourself a month after?

Warriar. Because he was in prison in the Gate-house.

L. C. J. When was he taken up?

Warriar. He was taken up in Somerset-House, and not in my house.

L. C. J. But when did you recollect yourself?

Warriar. When he was in prison.

L. C. J. But I pray remember the time when you did recollect yourself, and the occasion that made you recollect yourself when he was taken up.

Warriar. I remember it very well, for he had been in my house but 14 days, before he was taken up.

Sir Thomas Stringer. He was not taken up for the murder of sir E. Godfrey, till the 24th of December.

Justice Wild. Pray, did you never think of this till he was in prison?

Warriar. It was when he was taken up.

L. C. J. But, pray, when you came to recollect yourself, how did you come to do it?

Warriar. I recollected it by my work.

L. C. J. But what gave you occasion to recollect yourself since he was in gaol?

Sir Tho. Stringer. My lord, he was put into gaol for refusing to take the oaths; but he was not at all charged with the death of sir E. Godfrey at that time.

L. C. J. When was he put in for the death of sir Edmundbury?

Sir Tho. Stringer. The 24th of December.

L. C. J. Then there is all the remaining part of October, all November, and the former part of December, was past, how could you recollect yourself of the particular day?

Warriar. I called it to my mind by my work.

Captain Richardson. My lord, I will rectify this mistake: Since their arraignment, I went to them to know what witnesses they had, and Green told me of his landlord and landlady; I then asked them, if they could say any thing as to this particular day? and they said they could not do him any good at all.

Warriar. I did not then call it to memory.

L. C. J. When did you call it to memory?

Warriar. I did say I could not do it then presently, as I have done since, in five or six days.

L. C. J. How could you recollect it then?

Warriar. By the time he came into my house, which was a week before, and by the work that was done.

L. C. J. What could the work do as to this? Can you tell by that any thing that is done at any time? Where were you the 9th of Nov. last?

Warriar. Truly, I can't tell.

L. C. J. Why, how came you then to recollect what you did the 12th of October, when you did not know where you were the 9th of Nov.?

Warriar. I can tell a great many tokens, he was but 14 or 15 days in our house.

L. C. J. What did he do the 12th of October, that you remember so particularly that day?

Warriar. Sir, I remember other days besides that; but I say, I never knew the man out after nine o'clock, in my life.

L. C. J. Have you any body else? for this man, I can't tell what to make on't.

Green. Here is the man's wife to give evidence.

L. C. J. First consider what you say.

Mrs. Warriar. To tell you the truth, I

thought the man was so clear of this fact, that I never troubled my head with it; but when captain Richardson came to my house, I told him, that he never was in our house by day-time, except being cushion-layer in the chapel, he used to come at half an hour after eleven, and many times he did desire me, because we were Protestants, to put in a little flesh meat with ours; sometimes he would sit down and eat his meat in the kitchen, and his wife with him; and his wife would say to him, It is a troublesome time, pray see that you come home betimes. I did not at all remember the day of the month at the first, nor the action; but my husband and I have since remembered. We were desired by them once to eat a fowl with them; and my husband did command me the Sunday after to invite them to dinner with us, and I went in the morning very early, I think, and bought a dozen of pigeons, and put them in a pye, and we had a loin of pork roasted; and when he was gone to the chapel on Saturday in the afternoon, his wife came to me, and said, my husband is not well, and when he comes home will ask for something of broth; and away she went to market, to buy something to make broth of. While she was at market, her husband came home, and asked where his wife was? Why, Mr. Green, said I, she is gone to market: what an old fool, said he, is this, to go out so late, such a night as this is! But said he, again I will go to the coffee-house, and drink a dish of coffee, and pray tell my wife so. In the mean time she returned, and by that time she had been above a little while, he came in again. And Mr. Green being there, my husband came in, and called to me, pr'ythee, sweetheart, what hast thou got for my supper? Pr'ythee, said I, sweetheart, thou art always calling for thy victuals when thou comest in. Then Mr. Green goes to the stairs, and calls to his wife, and bids her bring him down some victuals, and she brings down the bread and cheese, and he stayed there till it was nine o'clock; and then saith Mr. Green to his wife, Let us go up, for there is a fire.

L. C. J. What day was this, all this while?

Mrs. Warriar. Why, it was the Saturday fortnight after Michaelmas day.

L. C. J. Why might it not be that day three weeks?

Mrs. Warriar. It was that day he was missing.

Att. Gen. Why, there was no alarm taken of it a Sunday.

L. C. J. When did you begin to recollect what day it was, that they said he was missing?

Mrs. Warriar. On Friday morning our milkman came and told us that one Mr. Godfrey was found murdered; now I knew one of the Exchange of that name, and thought it might be he. And when we went up with him to his chamber, we sat there till the Tattoo beat.

L. C. J. All the thing is, how do you know it was this Saturday?

Mrs. Warriar. It was the Saturday fortnight after Michaelmas day.

Justice Dolben. Are you sure it was the Saturday fortnight after Michaelmas day?

Mrs. Warriar. Yes, we did look upon the almanack, and reckon it so.

Justice Dolben. Then that was the 19th of October.

L. C. J. Why, you told him, you could do him no good, and indeed you do not.

Justice Jones. You and your wife speak of the same time, do not you?

Warriar. Yes.

L. C. J. Have you any more, Green?

Capt. Richardson. There is the maid, let her come in.

L. C. J. What say you, maid?

Maid. I can say, that he came in the Saturday fortnight after quarter-day, pretty betimes.

L. C. J. Can you speak of any other time besides that Saturday fortnight?

Maid. I can tell he came in every night before nine o'clock.

Green. I can take my oath, I was never out of my lodging after nine o'clock.

Hill. My lord, here is Mr. Ravenscroft now.

L. C. J. Mr. Ravenscroft, what can you say?

Mr. Ravenscroft. What I can say, my lord, is this: this Lawrence Hill, I have known him 13 or 14 years, and he served my elder brother so long, very faithfully. Afterwards he lived with Dr. Godwin, towards the latter end of the two last years, and he married my mother's maid.

L. C. J. What religion are you of?

Mr. Ravenscroft. My father and mother were Protestants.

L. C. J. But you are a Papist, are you not?

Mr. Ravenscroft. I have not said I am a Papist, yet.

Justice Dolben. In the mean time, I say you are one.

Mr. Ravenscroft. Do you so? Then pray go to Southwark and see.

Att. Gen. My lord, I think he hath taken the Oaths of Allegiance and Supremacy.

L. C. J. Well, pray, Sir, go on with your story.

Mr. Ravenscroft. If it please you, upon a Saturday, a little before Christmas, there was somebody taken; I think it was one Mr. Praunce, for I never saw the man, neither do I know him at all: and it was reported that he was taken upon the death of sir E. Godfrey, and I was glad to hear it. My house was in the Savoy, and my father's house is in Holborn; and I used often to go and see my father, and coming home again, I went to see the maid at her new house, she had not been long there, and she was standing at the door of the house. I asked her what news? Says she, Here hath been a man here that tells us, that Praunce hath discovered several of the murderers of sir E. Godfrey; and they talk up and down strangely of it, and ask me whether my husband be acquainted with him? Then said I to her, Is he? She answered me, Very well, they have been often together; and so she told me the people did mutter, and talk

of her husband. But, said I, what says your husband to it? Says she, He defies Praunce and all his works. Said I, Where is your husband? Said she, He is within. I was very glad to hear it; for, said I, he living in Somerset-House, and being acquainted with Praunce, I am glad to hear that your husband can be so courageous; so I went away, and came again thither the next morning, and found he was taken the night before. All that I say then, is, that it was a good evidence of his innocency, that when he had notice of it, he did not fly.

L. C. J. So then, your discourse was after Archbold had been there?

Ravenscroft. Archbold was there before me, and had spoken this in their company. I spake with her that night, and the next morning too; and all that I say is, if flight be a sign of guilt, as no doubt it is, Adam, *ubi es?* and courageousness is a sign of innocency, then this man is innocent.

L. C. J. But you say, she told you they were acquainted?

Ravenscroft. My lord, I have one thing more to say. Upon the occasion of these things, this woman hath been often with me, and hath desired to know of me what defence she should make, for I saw Hill's wife and Berry's wife were all simple people, without defence for themselves, and they did desire that I would examine and see some of the witnesses, and see how it was, and she had gotten me some papers, and I conferred them together, there are witnesses that will attest the copy.

Att. Gen. What is all this to the purpose? Only this gentleman hath a mind to shew that he can speak Latin.

Ravenscroft. I thank God I can speak Latin as well as any man in the Court.

L. C. J. Well, all this is nothing.

Ravenscroft. I declare it myself, if this man were guilty, rather than I would speak for him, if there wanted a hangman, I would do it myself.

L. C. J. Well, Berry, what have you to say?

Berry. I desire Nicholas Trollop, and Nicholas Wright, and Gabriel Hasket, and Elizabeth Wilks, and corporal Collet may be called.

Corporal William Collet first examined.

Berry. Did not you place a centinel on Wednesday night?

Collet. What Wednesday do you speak of, Sir?

Berry. That night the queen went from Somerset-House to White-hall.

Collet. Yes, this Nicholas Trollop I placed there first, the 16th of October.

L. C. J. How do you remember that?

Collet. Because I have been called to an account before, and have given good reasons for it. Our company was at Somerset-house when the king came from New-Market, and the queen went to White-hall. Afterwards we were bid to fetch our centinels off about three or four of the clock in the afternoon.

L. C. J. Did you leave any soldiers there?

Collet. No, we did not, all our company went to Whitehall.

Justice Dolben. Are you sure there were no soldiers that night there?

Collet. Yes, we were commanded with a party to go thither again that night.

L. C. J. What did you do then?

Collet. I placed the centinels by the Porter's order.

L. C. J. Who was that, Berry?

Collet. No, it was one that used to go about, and give orders where we should set them.

L. C. J. How did you place them?

Collet. This man I placed from seven to ten, then Nicholas Wright relieved him at ten, and stayed till one.

L. C. J. At what place?

Collet. To the Strand-ward.

Justice Wild. That was the gate they carried him out at.

L. C. J. Do you hear; whereabouts did you set the centinels? Within the gate?

Collet. Yes, within the wicket.

L. C. J. That way he was carried out?

Nich. Wright. There was no Sedan came out in my time.

Trollop. There was one came in, in my time, while I stood there.

L. C. J. Was it an empty Sedan?

Trollop. I suppose it was, but we had no order to keep any out.

Justice Wild. But you might know whether it was an empty sedan or no, by the going of it through the wicket.

Collet. There is an empty sedan that stands there every night.

Trollop. It was set down within the gate.

Justice Jones. If any sedan had gone out, you would not have staid them, would you?

Collet. No, my lord, we had no order to stop any.

Justice Dolben. How can you then be positive that no one did go out?

Trollop. None did go out again in my time.

Justice Dolben. Could not the porter open the gate, as well as you?

Collet. Yes, my lord, he could, but I should have seen him then: He did not open it in my time.

Justice Wild. Let me ask you but one question; did not you go to drink nor tippie all that time?

Trollop. No, nor walk a pike's length off the place of centry.

Justice Wild. Has not Berry an house there hard by?

Trollop. Yes, but I did not drink one drop.

Justice Dolben. How can you remember so particularly, so long ago?

Trollop. Why, I was twice before the committee.

Justice Dolben. But how long was it ago that you were questioned about this thing, after this night?

Trollop. A matter of a month or six weeks.

Collet. For we were examined before Praunce was taken up.

L. C. J. You, Trollop, can you say whether it was the sedan that used to be within?

Trollop. No, I cannot, but it was brought in in my time, and did not go out again.

Then *Gabriel Hasket* was examined.

Berry. You stood there, Sir, from one to four.

Hasket. Yes, after the clock struck one, I was put centinel, and stood till four.

L. C. J. What night?

Hasket. That night the king came from New-Market, and the queen went from Somerset-House.

L. C. J. What day of the month was that?

Hasket. The 16th.

L. C. J. What day of the week.

Hasket. Wednesday.

L. C. J. Did you not drink at Berry's then?

Hasket. No, I did not.

L. C. J. Did you see Berry then?

Hasket. No, I did not.

L. C. J. He was gone before you came?

Berry. I was fast enough a-bed at that time.

L. C. J. Well, what say you more?

Berry. Here is my maid, Elizabeth Minshaw, to give her evidence where I was that night the queen went from Somerset-House.

Just. Jones. What can you say?

Minshaw. May it please you, my lord, my master was within doors and about the gate, when the queen went away.

L. C. J. Who is your master?

Minshaw. Mr. Berry. He was about the gates all the forenoon.

L. C. J. When was that?

Minshaw. The 16th of October, Wednesday. And as soon as the queen was gone, my master went out to bowls; and when he came home again, he said he had been at bowls.

L. C. J. What time did he come home?

Minshaw. It was dusky, and he was not absent all night an hour, till he went to bed.

Just. Wild. When did he go to bed?

Minshaw. My lord, I suppose he went to bed about 12 o'clock.

Just. Wild. They do not charge him with any thing, but what was done about the gate.

Just. Dolben. What time did you go to bed that night?

Minshaw. Why, I went to bed about 12 o'clock.

Just. Dolben. And you saw him no more that night?

Minshaw. No, my lord, but he must go through my room to go to bed at night, and therefore I suppose he was a-bed.

Mrs. Hill. I desire Mr. Praunce may swear why he did deny all this?

L. C. J. Stand up, Mr. Praunce; that gentlewoman does desire to know, what induced you to deny what you had said.

Praunce. It was because of my trade, my lord; and for fear of losing my employment from the queen, and the catholics, which was the most of my business, and because I had not my pardon.

VOL. VII.

Mrs. Hill. I desire he may swear whether he were not tortured?

Just. Dolben. Answer her; were you tortured to make this confession?

Praunce. No, my lord, captain Richardson hath used me as civilly as any man in England; all that time that I have been there, I have wanted for nothing.

L. C. J. See what he says; that he did not make this confession by any fortune; but he made his recantation through fear, and the thoughts of death, because he had no pardon; and fear that he might live in want, by the loss of the trade, prevailed with him to deny what he had confessed.

Mrs. Hill. It was reported about town, that he was tortured.

Just. Jones. No, it was no such thing; it was only the tortures of his conscience, for being an actor in so great a sin.

Mrs. Hill. There are several about the court, that heard him cry out: And he knows all these things to be as false as God is true; and you will see it declared hereafter, when it is too late.

L. C. J. Do you think he would swear three men out of their lives for nothing?

Mrs. Hill. I desire he may be sworn to that particular thing.

Justice Jones. He is upon his oath already, and swears all this upon his oath.

Mrs. Hill. Well, I am dissatisfied; my witnesses were not rightly examined, they were modest, and the Court laughed at them.

Berry. The centinels that were at the gate all night, let nothing out.

L. C. J. Why, you could open the gate yourself.

Berry. He says, he could have seen if the gate had been open, and that, as he saw, the gates were never opened.

Justice Dolben. Well, the Jury have heard all, and will consider of it.

Mrs. Hill. Here is another witness, my lord, Mr. Chevins.

L. C. J. Well, sir, What say you?

Chevins. I have nothing to say, but that I heard Mr. Praunce deny all.

L. C. J. Why, he does not deny that now. Well, have you any more?

Chevins. We have no more.

Attorney General. My lord, I must crave leave to speak a word or two; and the Evidence having been so very long, I shall be exceeding short. I intended when I began to open the evidence) to have made some observations after the evidence ended; to shew how each part of it did agree, and how the main was strengthened by concurrent circumstances. But, in truth, the king's evidence did fall out much better than I could expect, and the defence of the prisoners much weaker than I could foresee. So that, I think, the proof against the prisoners is so strong, and so little hath been alledged by them in their defence, that it would be but loss of time to do what I at first intended. Only I will observe, That

P

Mr. Bedlow doth agree with Mr. Praunce as far forth as is possible; that is, in those parts of the fact, of which he pretends to have any knowledge. Yet had they never any communication one with another, as both have sworn. And your lordship will observe in how many particulars they do agree; namely, as to the dark-lanthorn, as to the covering of the body in the room; how they intended to carry the body out in a sedan, and the rest. So that if they had laid their heads together to contrive a story they could hardly have agreed in so many circumstances; and yet this they do, without discoursing with each other before-hand.

My lord I must likewise observe to you, that the servants of the Plow-alehouse concur as to meetings there: The maid agrees as to the prisoners coming to sir E. Godfrey's house, and to the time, viz. that Saturday morning; nay, to the very hours of nine or ten o'clock; that the constable's relation of the posture in which the body was found in the field, doth perfectly agree with the account that the murderers gave thereof to Mr. Praunce the next morning. The chirurgeons do agree with Mr. Praunce, as to the manner of sir E. Godfrey's being killed, the strangling, the bruising of his stomach, the twisting of his neck. And the witnesses from Bow make it out, that Detlick was sent for; that they had a dinner there. The boy proves that he overheard them reading something about sir E. Godfrey, and that they were very merry; and that for his listening he was threatened to be kicked down stairs.

So that, I think, there never was an evidence that was better fortified with circumstances than this: My lord, I shall be bold to say, here is certainly as much evidence as the matter is capable of. It is not to be expected, that they should call witnesses to be by, when they do such foul facts; so that none can swear directly the very fact, but such a one as was an actor in it. All circumstances relating to the fact, both before and after, are made out by concurrent testimony. And, my lord, I must observe, that this was a murder committed through zeal to a false religion, and that religion was a bond of secrecy. We all know, his majesty hath been graciously pleased, by his Proclamation, to propose a pardon, and a reward to the discoverers. And yet almost without effect: their zeal to their false religion was a greater obstacle, than the Proclamation was an incitement to the discovery. And I do believe, if Mr. Praunce had not had some inclination to change his religion, you had still been without so clear a discovery of this work of darkness, as now you have. I shall say no more, but conclude to the jury with that saying, that I remember in the Book of Judges (in the case of a murder too, though of another nature), Judges xix. 30. 'The people said 'there was no such deed done, nor seen, from 'the day that the children of Israel came out 'of Egypt.' And I may say there was never such a barbarous murder committed in England since the people of England were free from the

yoke of the pope's tyranny; and, as it is said there, so say I now, 'Consider of it, take advice, and speak your minds.'

Mr. *Solicitor General*. My Lord, I would only make one observation to your lordship, which is this: I do not find they do in the least pretend to tax Mr. Praunce, that any person hath bribed him to give this evidence; nor that there was the least reward ever proposed to him to bear witness against them, not so much as the hopes of that reward contained in the king's Proclamation; yet Mr. Praunce, if he had had a mind to bear false witness, might have laid hold of that opportunity; but so far was he from pretending to discover any thing, that he denied all when he was first apprehended. But after he was in hold, and likely to be brought to justice, and lying under the conviction of a guilty conscience, then, and not till then, does he discover it.

There is no objection in the world to be made, but since this discovery, Mr. Praunce hath retracted what he said before, but he gives you a very good account of it; the terrors of conscience he then lay under, the fears that he should not be pardoned, and the apprehensions he had from the threats on their side, and the danger of his utter ruin, put him upon that denial.

But, my Lord, he tells you likewise, That as soon as ever he was brought back to the prison, he owned all he had said at first, and desired he might be carried back again to testify the truth of what he had first sworn to. This, my lord, he gives you an account of, and the same account does the keeper of the prison give too. I have nothing to say more, but only just to observe the many circumstances whereby Mr. Praunce's testimony is fortified. Mr. Bedlow does agree with him in every circumstance, as far as his knowledge went: the maid of the house agrees with his testimony; that says, she saw Green at sir E. Godfrey's several times, though here he denies he knew him. That she saw Hill there that very morning her master was missed; that he talked with her master a quarter of an hour; that she knew him by a very good token; not only by his face, but also that he had the same clothes on then he hath now.

Mr. Praunce hath likewise told you of another circumstance, the meeting at the Plow-alehouse, where they laid the whole design of entrapping sir E. Godfrey; and herein he is fortified by the concurrent testimony of the master of the house, and his servant too, though they now deny that ever they had been in his company there; or that they so much as knew Girald; though when they were examined at the council-board, they said they knew Girald, but not Kelly; and now they are pressed with it here, Hill retreats to this, that he knows one Girald, but not Girald the priest.

My Lord, I think the matter is so fully and so plainly proved beyond exception, that there needs no repetition in the case: it is impossible that Mr. Praunce, a man of that mean

capacity, should invent a story with so many circumstances, all so consistent, if there were not truth at the bottom of it. He shews you the particular places, from place to place, where they decoyed him in, and how they disposed of him, to the time they carried him out. And in each of these circumstances there is not the least improbability or cause to disbelieve him. It hath been already so fully repeated, and the plainness of the evidence is so convincing, that I need not make more observations upon it, but submit it to your lordship and the jury.

Then the *Lord Chief Justice* directed the Jury in this manner:

Look you, gentlemen of the jury, this is an inquisition for innocent blood that hath been shed, and your business is to see if you can find out the murderers. We would not add innocent blood to innocent blood: but on the other side, if you have received satisfaction so much as the nature of the thing can bear, then the land is defiled, unless this be satisfied. Now, for that I will urge the witness and testimony no further than it does appear; for you and we are all upon our oaths to do uprightly, neither to spare murderers, nor condemn the innocent.

In the first place, We began with Mr. Oates, and he told you, that he had some converse with sir E. Godfrey, and that he was threatened by some, and had no good will for his pains, in taking those examinations he had taken, and he was afraid his life was in danger. This he tells you was the discourse before-hand, and this is produced to lead you to consider what sort of persons they were, of whom he was likely to have these fears; for his fears did arise from his having done his part as a justice of peace, in taking the examinations upon oath.

For the testimony of the fact, they produce first Mr. Praunce, wherein you will do well to observe all the degrees that he goes by before the fact, and all the circumstances in the transaction of that affair, and the parties by whom it was to be enacted: First he tells you, how long it was before they could entice him to consent to such a villainy as this was to murder a man; he tells you by whom he was thus enticed, which makes the story more probable; that is, by Girald and Kelly (two priests); and he tells it you still more probably by their doctrine, that it was no sin; but it was rather an act of charity to kill a man that had done, and was like to do them mischief: So that if you consider the persons that preached to him, and the doctrine they taught, it carries a great shew and presumption of truth in itself. When they had met together at the Plow several times (which was denied by some of them, but is most manifestly proved by the master of the house and the boy), and the wished for time was come; for they were to watch the opportunity, and Mr. Praunce was to be at home, and they would call him to give his helping hand; he tells you, that Mr. Hill did go that morning; for though he talks of an errand before, yet to keep to

that which was most pressing in the evidence, he went to sir Edmundbury's house. This he seems to deny; but the maid does swear it expressly upon him; and says, she came first to him, and went up stairs, and then came back again, and still he was there. And she swears positively she knows him by his face, and by the clothes he then had on, which are the same clothes he hath on now, and that is the man that was with her master; and this, which they cannot disprove, half proves the matter.

What had he to do at sir Godfrey's house? But that would be an hard puzzling question to be put to him: What did you there? And therefore he is to deny it; but the maid proves it upon him, as well as Praunce. So that I would have you consider how many witnesses you have to one thing or another, all conducing to this point.

You have first Mr. Oates, that tells you the discourse that passed between sir Edmundbury Godfrey and him; the maid tells you that both these men were there, one at one time, and the other at another; and you have Mr. Praunce, that knew the whole affair, who tells you so likewise, and that they were resolved to do the work that day, in so much, that if they could not do it, as they before contrived it (and sir Edmundbury Godfrey was sensible that he was dogged up and down), Girald did resolve to dogg him to his own door, and kill him in the lane that leads to his house; he would have run him through himself; and this Girald is one of those priests, whose church counts it no sin, but an act of charity to murder a christian, to propagate christianity.

When they had way-laid him, and watched his coming, from what place Mr. Praunce cannot tell; for he knows nothing but what they told him, and they only named in general, that he was lodged in St. Clement's; and thereupon one comes to acquaint him, that they would entice him in at the water-gate by Somerset-house, and they would do it with art enough, for they never want a contrivance for so charitable an act; And it was upon this pretence that there were two men a wrangling and fighting, and then he being a justice of the peace, was a person that would part the fray easily.

And it was a probable invention: For sir E. Godfrey was a man that was as willing to do all acts of justice as any one, and as little afraid to do it; for the witness tells you before, that he said, if they did do him a mischief, they must do it basely, for he did not fear the best of them upon fair play. Then when he was desired to get himself a man to follow him, he slighted the advice: And we all know, that he was a man of singular courage, and therefore it was the easier to lay a trap for him. Then saith Praunce, when he was got in, Berry and I were to have several posts, which we were to go to, I to one place, and Berry to another; and I staid, saith he, till Green threw the cravat about his neck, and was assisted by Girald and the rest that were there. And then, as soon as we could imagine the thing to be done,

Berry comes in, and Praunce comes back from his standing, and by some motions finds that he was alive, and that till Green twisted his neck round; which the Chirurgeons say was plainly a broken neck, and nothing of the wounds which were in his body were given him while he was alive.

When they had done this, he tells you, they carried him to Mr. Hill's chamber: Berry, Gerald, Kelly and the rest, all helped him in, and there they leave him. Then Praunce goes away. This was on Saturday night. Then Praunce comes again on Monday night, and finds him removed to another chamber hard by, where he saw him by the light of a dark-lantheon, with something thrown over his face; and afterwards on Tuesday night following they did remove him back to Hill's lodgings, and there he lay till Wednesday night, when they carried him out.

Saith Praunce, I saw him that night: I was the man that helped to carry him out, for it was Praunce and Gerald that carried him first, and it was Green and Kelly who went before, and took him up afterward. He tells you, they set him upon an horseback, and Hill behind him. They carried him out in a chair, which was a thing that used to come in and go out there, and so the less notice would be taken of it. I will observe to you afterwards, on the prisoners behalf, what is said for them to all this.

But as to Praunce, you see he hath given you an account from the top to the bottom, from the first transaction between them, from the time of his being called by them to help in the murder, and from his seeing the handkerchief twisted about his neck, his neck twisted round; how they disposed of his body at first; what removes they made, and when they carried him out, who were in company, who relieved them, and what became of him at last.

He says, he saw him set up before Hill on horseback, and they told him, they had thrown him into a ditch, and Gerald had run him through with his own sword; and in that posture, and in that place the constable found him: The chirurgeons tell you that it was by the twisting of his neck, and the strangling, that he was killed, and not by the wounds; and the very bruising which Praunce speaks of, were found upon the view of the body. So that here is not any one thing that is not backed either in some particular circumstance or other; besides Mr. Praunce's testimony, who (alone) could give the narrative of the fact.

And it is no argument against Mr. Praunce in the world, that he should not be believed because he was a party, or because he after denied what he first said: First because you can have no body to discover such a fact, but only one that was privy to it: So that we can have no evidence, but what arises from a party to the crime. And in the next place, his denial after he had confessed it, to me, does not at all sound as an act of falshood, but fear. It is not a good argument to say, that he is not to be be-

lieved because he denied what he once said; for he tells you he had not his pardon; he was in great consternation; the horror of the fact itself, and the loss of his trade and livelihood was enough to do it. But how short was his denial, and how quick was his recantation! For he denied it before the king, not upon oath: He swore it upon oath, but he denies it upon his word only; but by that time he got home to Newgate, with captain Richardson, he fell down on his knees, and begged him for God's sake to carry him back to the king, for what I did say at first, said he, is true, and this denial is false. And here could be no tampering, no contrivance made use of; no, it is plain there could be no art used to make him retract from his first testimony. And these are the particulars, as to Praunce's evidence.

Then comes Mr. Bedlow, and tells you, that he was commanded by Le Faire, and the priests he was acquainted with to insinuate himself into the acquaintance of sir E. Godfrey; they did not tell him why; they themselves knew privately wherefore, and they did intend him as an instrument to do it, as appears afterward. He tells you, he got into his acquaintance, by pretending to go for warrants for the good behaviour and the peace, as he knew sir E. Godfrey was willing to have the peace kept; and he was with him every day almost, for a week or more.

Then the priests come a little nearer, and tampered with him to kill a man, an ill man for their turn, and that Mr. Bedlow should be very well rewarded, he should have 4,000*l.* to kill that gentleman; but still they kept the name secret. He promised them fair, but broke his word. Afterwards he meets this companion that he had most confidence in, and being taxed with his breach of promise, said he, I had business, I could not come. Well, said his companion, you should have been as good as your word; but the thing is done, the person is killed, and I would have you help to carry him away. He promises to do it, and to meet him at Somerset-house; accordingly he comes up on Monday in the evening, and about nine or ten of the clock at night Mr. Bedlow swears, that in his chamber that Praunce says he was laid in, he did see the body by the help of a dark-lantern; and his face was covered with a cloke or mantle, or some such thing thrown over him.

And these two men, viz. Mr. Praunce and Mr. Bedlow, as the council have observed, had not any confederacy together, for they both swear, that they never had any converse at all; and if it be so, then it is impossible for two men so to agree in a tale, with all circumstances, if they never conversed together, but it must be true.

It is hardly possible for any man to invent such a story; for Praunce it is, I believe. I find it is no hard thing for the priests to contrive such an action; but for two witnesses to agree in so many material circumstances with one another, that had never conversed together, is impossible.

If all this had been a chimera, and not really so, then Praunce must be one of the notablest inventors in the world. And there must have been the mightiest chance in the world, that Mr. Bedlow and he should agree so in all things; and that the maid should swear, that Hill was there that morning; and that the constable should find the body, just as they told Praunce they had left him.

So that upon the matter, you have two witnesses almost in every thing: for Mr. Bedlow, seeing him in the place murdered, is a plain evidence that the thing was done; and all the other witnesses, speaking to circumstances both before and after, make the evidence plain, that these were the persons who did it. And I see nothing incoherent in all Mr. Praunce's testimony.

I would not urge this so, if I was not satisfied in my own conscience that the relation is true. In the prisoner's defence, there is but one thing that hath any sort of weight; for the young gentlewoman talking of his being constantly at home at eight o'clock, is nothing; for she says they always go to bed about nine o'clock, and they give no answer to this, but that it could not be done in their house but they must know of it; but do not shew how that must needs be; so that all their evidence is slight, and answers itself or else not possible to be true. All the testimony that is considerable in this matter, is that which Berry produces; and that is concerning the centinels who kept the guard that Wednesday night the body was carried out; and he says, there was no sedan carried out. And although this evidence be produced but by one of them, yet it is to the benefit of them all three; for if it were certain and infallibly true, that the centinels did so watch at the gate that no mortal could go out of the place, and if the darkness of the night might not hinder him from seeing what might go out, or that Mr. Berry's voice being known to him, he might not call to him, and so Mr. Berry might open the gate without any great caution, or more particular observation by the centinel, so that this might escape his observation or remembrance, and yet that the centinel be an honest man, and speak true, as he thinks, to his best remembrance, which I leave to your consideration. But there is one thing the other centinel tells you, that about eight or nine o'clock (for he went off at ten) there was a Sedan brought in, and he did not see it go out; and so says he that watched from ten to one; and this is the only thing which hath any colour in it, in behalf of the prisoners. But he that says there was no body went out, says also, that he never saw the sedan; but the centinel that was relieved, says, that he saw it go in. Now how far that single testimony of Nicholas Wright the centinel will weigh, who says that none went out, I leave with you, which may be mistaken, either by reason of the darkness of the night, or those other particulars I have observed to you.

But this is all that can overthrow the whole series of the evidence that hath been given by

Mr. Praunce, upon whom I find not the least reflection, except you will call that one, which to me, as it is circumstanced, is rather an argument for him than against him, viz. his going off from what he said. And what sir Robert Southwell says is regardable, that when he shewed them the place where he was strangled, the house to which he was first carried, he did it very readily and confidently, but was puzzled to find out the room where he was removed when he saw him by the dark lanthorn, and would not positively assert where it was; which shews the integrity of the man, who would else have gone through without boggling, for if all were a lie, why should he stick at one thing more than another, but have shewed some room or other? but when he was confident he appeared so, and when he was doubtful he appeared so, and so shewed himself an honest man.

These are the particular matters, and, as near as I can remember, all that hath been materially offered for the prisoners, against the king's evidence. For the testimony of the landlord, Warriar, and his wife, it is plainly spoken of another time, for it was the Saturday after the Thursday he was found, the 19th of October. So that they speak nothing but what is true, and yet nothing to the purpose; for the question is, of that which was done the 12th; but they speak of a time when the tragedy was passed, so that there is only the single evidence of one witness, the centinel, which must be opposed to all the concurring evidence given against them.

Berry. There was centinels placed at every one of the gates.

L. C. J. That is nothing, for we speak only of this gate, the great gate; but I will tell you what there is that does not arise from these witnesses, but from the nature of the thing they were about and the persons that transacted it, that gives credit to the testimonies of the witnesses, so as to incline any one to believe them as things stand at this day, in reference to the known design of the priests to subvert our religion, for they must justify one ill by another, and the mischiefs they have done will not be safe, unless they do more.

And for the priests being the preachers of murder, and your sin, that it is charity to kill any man that stands in their way; their doctrine will make you easily believe their practice, and their practice proves their doctrine. Such courses as these we have not known in England till it was brought out of their Catholic countries: what belongs to secret stranglings and poisonings, are strange to us, though common in Italy. But now your priests are come hither to be the pope's bravos, and to murder men for the honour of his holiness: and as they are inhuman so they are unmanly too; for sir E. Godfrey had not been afraid of two or three of your priests, if they would have dealt fairly with him.

Berry. He was a gentleman that I never spoke with in all my life.

L. C. J. You must say and believe, as your

priest will have you, and in such actions as these as your priests suggest to you, so does the devil to your priests; if you are upon the matter necessitated to what they will have you think; for though your priests preach up freedom of will, yet they allow none to the understanding. They hold you may do good or evil, but will not suffer you to understand right and wrong, for you cannot be perfectly theirs, if you have any thing of your own to guide yourselves by.

I know that every body of that party is apt to say their priests own no such thing, but it is notoriously known to all the world, that they both print it, and practise it. What, shall any of you dispute the power of a pope? saith a Jesuit; or, of a pope and council? say the most moderate priests. Have you power to say how far you will be a papist, and how far not? you may as well bound the sea, and bid it go thus far, and no farther, as limit the pope's authority. I wonder any man should be of that persuasion, and yet keep his reason: much less turn from our religion to theirs, if he considers how they impose, and what mischiefs and blood you are involved in by your priests, that have alarmed the nation. For I will affirm, the greatest mischief the papists have received, come from their priests, who have such unworthy and unmanly ways of setting up their religion: What! Do they think it an act of charity to kill men; or is the Christian Religion or yours, to be promoted by such means as these? No, gentlemen, it is the fault of your doctrine, and it is a monstrous mistake in you, if you think that you have any power of your own whilst you continue in their persuasion.

I know some will ascribe all to conscience that guides them, and that even these mischiefs are but the effects of their religious obedience; but they are indeed the consequences of the blindness of their obedience. I wonder how any man can have the face, thus to disorder a whole nation, and yet pretend conscience for it. Let no man tell me, O, sir, we desire none of these mischiefs you talk of; what, not if religion requires it, or if the pope says it does? hath not the council of Lateran decreed that every popish prince ought to root out heresy upon pain of damnation? you must: can you go and tell the pope how far you will believe, or what you ought to do? You may as well tell me, that if he were once with us, and had the power he once had, he would leave us to ourselves and that if he had the same ability, he would not have the same tyranny.

And therefore all the Roman Catholic gentlemen in England would do very well to consider, how much it concerns christianity not to give offence; and if they cannot at this time live in a Protestant kingdom with security to their neighbours, but cause such fears and dangers, and that for conscience sake, let them keep their consciences but leave the kingdom. If they say, why should not we stay here, while we do no mischief? Alas, that is not in your power. You cannot be quiet in your own reli-

gion, unless you disturb ours; and therefore, if to shew your consciences you acquit the country, and let the inconveniencies light on yourselves only, I should then think you had zeal, though not according to knowledge; and not ascribe it to any plot, but to the simplicities of understanding.

But, in short, there is a monstrous evidence of the whole plot itself by this fact; for we can ascribe it to none, but such ends as these, that such a man must be killed; for it must be either because he knew something the priests would not have him to tell, or they must do it in defiance of justice, and in terror to all them that dare execute it upon them; which carries a great evidence in itself, and which I leave to your consideration; having remembered, as well as I could, the proofs against them, and all that is considerable for them. Add to this the condition that we are in at this time, and the eagerness of the pursuit that these priests make to gain the kingdom, that, for my own part, I must put it into my litany, That God would deliver me from the delusion of Popery, and the tyranny of the Pope: For it is a yoke which we, who have known freedom, cannot endure, and a burden which none but that beast who was made for burden, will bear. So I leave it to your consideration upon the whole matter, whether the evidence of the fact does not satisfy your consciences, that these men are Guilty. And I know you will do like honest men on both sides.

[Then the Jury withdrew to consider of their verdict, and after a short space returned again.]

Cl. of Cr. Gentlemen, answer to your names. Sir William Roberts.

Sir William Roberts. Here. And so the rest.

Cl. of Cr. Gentlemen, are you all agreed of your verdict?—*Omnes.* Yes.

Cl. of Cr. Who shall say for you?

Omnes. Our foreman.

Cl. of Cr. Robert Green, hold up thy hand (which he did). Look upon the prisoner; how say you, is Robert Green Guilty of the felony and murder whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods or chattels, lands or tenements?

Foreman. None, to our knowledge.

Cl. of Cr. Henry Berry, hold up thy hand (which he did). Look upon the prisoner. How say you, is Henry Berry Guilty of the felony and murder whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods or chattels, lands or tenements?

Foreman. None, to our knowledge.

Cl. of Cr. Lawrence Hill, hold up thy hand (which he did). How say you, is Lawrence Hill Guilty of the felony and murder whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods or chattels, lands or tenements?

Foreman. None, to our knowledge.

Cl. of Cr. Harken to your verdict, as the Court hath recorded it. You say that Robert Green is Guilty of the felony and murder whereof he stands indicted. You say that Henry Berry is Guilty of the felony and murder whereof he stands indicted. You say that Lawrence Hill is Guilty of the felony and murder whereof he stands indicted; and that neither they nor any of them, had any goods or chattels, lands or tenements, at the time of the felony committed, or at any time since, to your knowledge. And so you say all.

Omnes. Yes.

L. C. J. Gentlemen, you have found the same verdict that I would have found if I had been one with you; and if it were the last word I were to speak in this world, I should have pronounced them Guilty.

At which words the whole assembly gave a great shout of applause.

Att. Gen. Will your lordships please to give Judgment this evening? I know it is not usual the same day.

Justice Wild. My lord, I am ready.

L. C. J. No, brother, I am to sit at Nisi Prius this afternoon, and it is time we broke up the Court.

Cl. of Cr. Captain Richardson, you shall have a rule to bring them to-morrow. And then the Court broke up.

On Tuesday, the 11th of February, the Prisoners were brought again to the bar, in order to receive their Sentence; and the Court proceeded thus:

Recorder. My lord, as I was directed by Mr. Attorney, these prisoners being convicted of murder, I do, for the king, pray Judgment upon them; but I must first acquaint your lordship, that immediately after their conviction, one of the officers, a tipstaff, pretending it was his fee, took their clothes off their backs.

L. C. J. Who is that officer?

Recorder. One Ashby.

L. C. J. Call him. Why do you offer to meddle with these men's clothes?

Ashby. It hath been an ancient custom this 40 years, some of us have known it, that the marshal hath the upper garment of all prisoners tried at this bar.

L. C. J. (Speaking to a Clerk of the Crown Office). Is there any such custom, Mr. Waterhouse?

Waterhouse. No, my lord, not that I know of.

L. C. J. Here is Mr. Waterhouse, that hath known the practice of the Court this three-score years, says there is no such thing. Either restore them their clothes, or we will take some other course with you. Are they in your custody, pray?

Justice Dolben. I do not know that, my

lord; I think they always plead in custody of the marshal.

Justice Wild. But this seems a very barbarous thing, to take their clothes off their backs.

Justice Dolben. It doth so, brother, and they must be restored.

L. C. J. Yes, yes, you must restore them.

Ashby. They shall be, my lord.

Recorder. I pray your Judgment.

L. C. J. Ask them what they can say to hinder Judgment.

Cl. of Cr. Robert Green, hold up thy hand (which he did). Thou hast been indicted of felony and murder, thou hast been thereupon arraigned, thou hast pleaded thereunto Not Guilty, and for thy trial thou hast put thyself upon God and thy Country, which Country hath found thee Guilty; what hast thou to say for thyself, why the Court should not proceed to give judgment of death upon thee, and award execution according to the law?

Captain Richardson. What have you to say for yourself?

Green. I declare to all the world, that I am as innocent of the thing charged upon me, as the child that is in the mother's womb. I die innocent, I do not care for death. I go to my Saviour, and I desire all that hear me to pray for me. I never saw the man to my knowledge, alive or dead.

Cl. of Cr. Henry Berry, hold up thy hand (which he did). Thou hast been indicted of felony and murder, &c. what canst thou say, &c.

Berry. I do declare, I am not guilty of any thing in the world of this.

L. C. J. We do not expect much from you, and it is no great matter; for your confession will do us little good, but only for yourselves. We regard it not otherwise, because the evidence was so plain, that all mankind is satisfied, there is no scruple in the thing; and we know you have either downright denials, or evasions, or equivocating terms for every thing; yet in plain-dealing, every one that heard your trial hath great satisfaction; and for my own particular, I have great satisfaction that you are every one of you guilty.

Cl. of Cr. Lawrence Hill, hold up thy hand (which he did). Thou hast been indicted of felony and murder, &c. what canst thou say, &c.

Hill. I have nothing to say for myself, but that God Almighty knows my innocence.

Cl. of Cr. Crier, make an O Yes.

Crier. O Yes! Our sovereign lord the king doth strictly charge and command all manner of persons to keep silence, whilst Judgment is giving upon the prisoners convicted, upon pain of imprisonment; peace about the Court.

Then Mr. Justice Wild, who, as second judge in that Court, pronounced the Sentence in all criminal matters, except High Treason, spoke to the prisoners thus:

Justice Wild. You that are the prisoners at

the bar, you have all three been indicted for a detestable murder, and thereunto have pleaded Not Guilty; and put yourselves for your trial upon your country; and your country, upon a clear and pregnant evidence, I believe to the satisfaction of all good men, that were indifferent, have found you Guilty. I have little comfort to say any thing to you, because I observe your obstinacy at the bar; but it is so generally among you all, you will confess nothing to the death.

Green. God forbid, Sir.

Justice Wild. But though I am of another persuasion than you, and know you have no charity for me, yet I have charity for you. And if I shall say any thing, it is out of a zealous affection I have for your souls; God knows I speak it upon no other grounds; though the offence be horrid, yet I commiserate your persons.

For the nature of your offence, it is murder: 'He that sheds man's blood, by man shall his blood be shed; for in the image of God created he him.' So saith God to Noah, intimating and declaring thereby, that the intention of God Almighty, in the making of that law, was the preservation of mankind; and that he will not admit or suffer his image to be defaced or destroyed. If it shall be accounted treason against earthly princes to deface their images, is it not much more treason against the great God of heaven and earth, to deface his image, who is the 'King of kings, and Lord of lords?' The greatness of this sin struck such a damp and horror upon the soul of Cain, that it made him cry out, 'His punishment was greater than he could bear;' or, as our bibles have it in the margin, 'His iniquity was greater than could be forgiven; and it shall come to pass, that whosoever meeteth me, shall slay me:' being conscious to himself, that it was just and lawful, that whosoever did meet with him should slay him. And God himself doth set forth the heinousness of this offence, when he tells him, 'His brother's blood cried to him;' that is, cried unto God from the earth for vengeance. Blood, it is of a crying nature, and will never cease crying, till it find out the man-slayer.

It is an offence so heinous in the eye of God, that he will not endure it in a beast; God saith, he will require it of a beast. And doth God require blood of a beast, a brutish creature void of all reason, and will he not require it much more of man, whom he hath endued with those two great faculties of reason and understanding? and certainly, if murder in general be enquired after, I may well say this of yours, there hath not been committed a more impudent and barbarous murder in this civilized nation, by one subject upon another. And observe how you did effect this murder, with baseness enough. See the baseness of it; as the devil was the father of lies, so he was a murderer from the beginning; and you first begun your murder with an hellish, studied, and premeditated lie. Knowing that this gen-

tleman was a person very vigorous in the execution of his place, that would omit no opportunity of doing his office; you pretend you have occasion for him, and by this means draw him into your snare; where what you do, you do cowardly and basely, first disarm him, then fall upon him, and murder him; as the prophet David saith of the ungodly man, 'first gets the righteous man in his net, and then ravisheth him.'

Had such a thing as this been acted by us Protestants in any Popish country in the world, I doubt there would scarce have been one of us left alive. They would not have taken this course that hath been taken with you, to admit us to a fair trial; no, they would have made their own hands their avengers: but, God be praised, we are of another religion, and of another persuasion. We leave vengeance to God, and, under him, to the magistrate 'who beareth not the sword in vain,' as you now find.

If I could abstract folly from wickedness, certainly it was one of the greatest pieces of folly and sottishness in the world; for what could be your end in it? did you think that all the magistrates in England were lodged in sir E. Godfrey? that, if he were taken out of the way, there were not men of spirit and courage, as faithful and diligent as he was? trouble not yourselves, nor let those of your persuasion trouble themselves, there are a numerous company of magistrates in this kingdom, that will do the same thing, and act in it, and execute their offices with the same courage.

And as to the manner of the murder: whom have you destroyed? a magistrate. For what? for the execution of his office. One that was a conservator of the peace; and whose study it was to preserve you in peace, on him you have violated the peace, and nothing less would satisfy you than his precious life; an affront to the law, to the magistrate, to the king, to the nation; yea, to God himself, upon whom an higher affront could hardly have been put. For the magistrate is God's ordinance; God hath set him up to avenge himself upon the wicked, and to reward the good; 'and he doth not bear,' as it is a sign by you he hath not born, 'the sword in vain.'

I might say much more concerning the heinousness of this offence; but had I the tongue of men and angels, I could not say enough to set out the horror of it. And now let me tell you, I do not speak this to insult and domineer over you; I praise God I am of another spirit; he knows I have another end in what I say, and my end is merely this, to persuade you from the foulness of your fact, to make a good use of it; that the horridness of your sin may make the greater and deeper impressions on your spirits; and so make your repentance more severe and efficacious. Had you as many years to live as you have hours, it were little enough to bewail this horrid offence. But on the other side, as that will be little enough,

yet let me give you this comfort, you have time enough, if you make a good use of it, to make your peace with God.

Pray let me debort you from one thing; and that is this, do not be of the opinion of those wicked miscreants the Jesuits, that have put you upon this matter; for I have so much charity for you as to believe they made it a matter of religion to you, and justifiable upon that account. Do not think so, for the law of God is indispensable, and no power under heaven can license to murder. So that though the offence in them is abominable, yet in you it is an offence too, and an horrid one. And when you have considered it as such, I then desire you to take a right course to make your peace with God: for you must pass under another judgment than that of man, and that shortly; you must stand before the Judge of heaven and earth. And therefore, if by this means you can prevent that future judgment, you will have just cause to thank God that you had your punishment here on earth. Therefore let me advise you to spend every minute you have left, in a free acknowledgment of all your offences: for certainly some sin went before, or this had never come after. One sin dogs another, and makes way for the commission of another.

And what must you rely upon? not upon any trash or trumpery, not upon any merit of your own; there is but one Saviour and Mediator, the Lord Jesus Christ. And I would advise you, in the words of that great Cardinal, one that was one of the greatest men of your religion, Bellarmine I mean, who having made a scrutiny, which was the safest way for securing heaven, made the conclusion thus: "To trust only upon the Lord Jesus Christ for life and salvation;" which I advise you to do.

I have now done what I intended to say to you; and what I have said, I spoke to deliver my own soul, and upon no other account. I now pronounce the judgment which the law hath appointed to pass upon such malefactors; and that is this:

"That you go from hence to the place from whence you came, and from thence to the place of execution, where you shall be severally hanged by the neck, till you are severally dead; and the Lord have mercy upon your souls."

Hill. I humbly beg one favour, that I may have the privilege to see my wife and children, and my brother, before I die, sometimes.

L. C. J. God forbid else.

Hill. Any day, I hope, my lord?

L. C. J. Captain Richardson, let them have the liberty of seeing their friends, but do it with care and caution.

Just. Wild. And I will say this more to you, if you will have any religious Protestant divines to come to you, they shall be sent to you, but none of your priests.

Hill. I desire only my relations.

Just. Wild. You shall have them, and we offer you the others.

VOL. VII.

Green. I have no relations that are catholics, but two, and they are not priests. God bless the king: and I desire all good people to pray for us.

L. C. J. Mr. Astry, let the rule be entred for their execution on Monday next.

Cl. of the Cr. Captain Richardson, you shall have the rule for their execution on Monday next.

Then the keeper carried away the prisoners to the gaol, to be reserved till their execution.

On Friday the 21st of February, the prisoners, Robert Green, Henry Berry, and Lawrence Hill, were executed according to the sentence pronounced against them; they all persisted to the last in denying the fact for which they suffered.

An Account of, together with, the Writing itself, that was found in the pocket of LAWRENCE HILL; at the time he and Green were executed, Friday, the 21st of February, 1678-9, for the Murder of Sir Edmundbury Godfrey, knt.

It is very fit the world should have some account of what was said at the Execution of these men, and how they came to say what they did. Their Confession (as it is called) was a denial of the fact, which was penned and prepared in a very formal manner, and taken out of the pocket of Hill, who had neither pen, ink, nor paper, all the while he was in Newgate; yet, after he was dead, captain Richardson, the master of Newgate, saw the executioner take it out of his pocket; which is verbatim, as follows:

"I now come to the fatal place where I must end my life, and I hope with that courage that may become my innocence: I must now appear before the Great Judge, who knows all things, and judges rightly; and I hope it will be happy for me, a sinner, that I am thus wrongfully put to death. I call God, angels, and men, to witness, that I am wholly ignorant of the manner, cause, or time of the death of justice Godfrey; although, on that account, by the malice of wicked men, brought to this shameful death, which, I hope, will give me a speedy passage to eternal life: In this hope I die cheerfully because of my innocence, and the benefit of the precious wounds of my blessed Saviour, by whose merits I hope for salvation. I die a Roman Catholic, desiring all such to pray for me: And I beseech God, in his justice, to discover this horrid murder, with the contrivers thereof, that my innocence may appear. And though from my heart I forgive my accusers, yet I cite all such as have had a hand in this bloody contrivance, before the great tribunal of God's justice, to answer for the wrong they have done the innocent; and particularly the Lord Chief Justice, and the brothers of sir Edmundbury Godfrey, with jury, witnesses, and all their partakers. O Lord, bless and preserve his majesty, and be

Q

merciful to this poor nation, and lay no innocent blood to its charge. So I bid you all farewell in Jesus Christ, into whose hands I commend my spirit."

Then turning to some of the officers, he said: There is a report up and down, that I have confessed the murder of sir Edmundbury Godfrey to Dr. Lloyd; I do deny it.

This Paper was shewn to Hill's wife; and she being demanded whether it was her husband's hand-writing, affirmed it was not: And being farther asked, whether she conveyed it to him, she protested she knew not how he came by it; and declared that she never saw it before.

Then Mr. Green said;

"I desire all your prayers: And as for sir Edmundbury Godfrey, I know not whether he be dead or alive; for in my days I never saw him with my eyes, as I know of; and if false people will swear against me, I cannot help it. I pray God to bless my king, and all good people."

Then captain Richardson told him, he had a fair trial, and wished him not to reflect on others, but to prepare himself for death: To which Mr. Green replied, I pray God Almighty to forgive them all: I never saw sir Edmundbury Godfrey, to my knowledge in my life.

Mr. Berry being a protestant of the church of England, was reprieved till the 28th of the same month, in hopes he would make some discoveries. Nevertheless, when he came to the gallows, he absolutely denied all knowledge or concurrence in the fact for which he died; as will be seen by the following Account of his Behaviour.

A Relation of Mr. BERRY's Behaviour and Discourse, from seven o'clock in the Morning, untill he was executed. Written so soon as I got Home.* GEORGE WILSON.

WHEN I came to him in Newgate, I found him upon his knees, at his prayers, with Dr. Patrick's Devotions in his hands. He told me he was glad I was come, and desired my assistance in prayer. After I had for some while prayed with him, which he did very fervently, I believe, for almost all the time he wept; we then rose up both together, and had some little discourse. I told him, that as the law had condemned him, so I could not but conclude him guilty; and therefore did assure him, that there was a strict tribunal after this life, before which we must all appear; and in particular for him, that there were but two or three hours before he must suffer death, and come to judgment; and therefore I did desire him, that he would reveal to me what he knew

of the murder of sir Edmundbury Godfrey; that God's justice might be glorified in his death; and that he would not go out of the world in his sin, unrepented of; which it must be, if he did not abhor it, and confess it. He answered me, He knew not any thing of the fact for which he was condemned: This was spoke with some asseveration. I hearing him give this answer, asked him, what were the particular things that were witnessed against him, for which he was condemned? As I did conjecture then, I thought he seemed to be unwilling to speak of this matter; nor did his words seem to come freely from him: But he told me, that Mr. Praunce* had accused him

* An Account of the proceeding to sentence against MILES PRAUNCE, for wilful PERJURY; who was sentenced in the court of King's-Bench, Westminster, upon a conviction by his own confession, on the 15th of June, 1686, in wilfully forswearing himself at the trials of Robert Green, Lawrence Hill, and Henry Berry, &c. in relation to the murder of sir Edmundbury Godfrey.

Miles Praunce, a silversmith, having been, the last Easter Term, arraigned upon an information of wilful perjury, exhibited against him in the court of King's Bench, for wilfully forswearing himself against Robert Green, Lawrence Hill, and Henry Berry, &c. in relation to their murdering sir Edmundbury Godfrey; and for which, upon his oath, &c. they were executed for the said murder at Tyburn; and he confessing himself guilty of the perjury specified in the same information, was, on Tuesday, the 15th of this instant June, again brought to the court of King's Bench, to receive his sentence. The Court having a while considered the heinousness of the crime, and putting him in mind of it, told him, It was well he was so sensible of his offence, it being so great a one, as to extend to the taking away the lives of innocent persons, which did aggravate it; though one that had before him been found guilty of two notorious perjuries in that court, continued obstinate to the last; and, for aught appears, has not hitherto shewn any remorse. Yet seeing he (meaning the prisoner) was sensible of his crime, and had confessed it, the Court had considered his condition, and would have some compassion on a true penitent. The sentence of the Court was, "That he should pay a fine of 100*l.* to the king: That he should appear before each court in Westminster-Hall, &c. with a paper upon his forehead, expressing his crime: That on Monday next he should stand at Westminster in the pillory, between the hours of 11 and 1, for the space of an hour; on Wednesday the like, before the Exchange; and on the following Monday, at Charing Cross: And he was likewise sentenced to be whipped from Newgate to Tyburn; and he to continue in prison until all was performed."

Praunce, upon the aforementioned exhortation, declared, That his last confession was the

* From a MS. in the library belonging to the church of St. Martin's in the Fields.

for the assisting in carrying sir Edmundbury Godfrey, after he was murdered, into a room in Somerset-house: He said, He could not say he had never been in the room Mr. Praunce spoke of, for he believed, one time or other, that he had been in all the rooms of the house; but that, to the best of his remembrance, he had never carried, in all his life, a two-penny weight into that room; but did acknowledge God's justice in his death, for changing his religion for interest sake. Hearing him thus positively to deny the fact, considering Dr. Lloyd had been with him two or three days before, I did not further press him, because I came to him only for to assist him in prayer: And therefore, after this little discourse, we went to prayers again, and before we had done, the Ordinary of Newgate came in, to whom I gave place.

He began to tell Mr. Berry, that he had found him of a more ingenuous temper than the rest were; and wondered who had been tampering with him, to make him persist in the denial of the murder, which if he would have confessed, there was once hopes of a pardon; but if he would at last confess it, he would endeavour what he could to have him saved: And told him also, that it was no argument, that others had foolishly thrown away their lives, that therefore he must do so too: therefore, says Mr. Ordinary, come tell me what is truth. Mr. Berry answered, You have been very pressing upon me; I cannot tell what you mean (and shewed his averseness again to speak of the murder.) I mean, says Mr. Ordinary, that thou wouldst tell me what is truth; and prithe come tell me what is truth? Truth, says Berry, is not to tell a lye; not to speak that a man does not know; and this is truth. Well, says Mr. Ordinary, come tell me what thou knowest of the murder, and do not damn thyself. Says Mr. Berry, But I think you would have me, by your thus pressing of me; for I did not know any thing of it, for a fortnight after

truth; and that he was very sensible of, and sorry for what he had done; upon which the Court desired God to continue him so.

The Sentence passed, the keeper of the Gatehouse was ordered to take back his prisoner, which he accordingly did, conveying him to the Gatehouse prison, where he now (June 15, 1686), remains in custody.

it was done. Mr. Ordinary then told him, he would deceive himself if he thought that any absolution, or any indulgence, of either priest or pope, could save him, without true repentance. He said, he did not believe any such thing. Mr. Ordinary perceiving that this discourse did but disorder him, and had put him out of that composure and calmness he was in before, gave it over, and went to prayers, till the sheriff sent to him, to come away to execution. When we were coming out of his prison-chamber, Mr. Ordinary asked him, if he should go along with him to his execution: Mr. Berry begged heartily that he would not, but desired me to go along with him: Mr. Ordinary said, It was his place, and he would go. We both went, and got into the cart to him, at the place of execution: When he had prayed by himself a good while, Mr. Ordinary desired him to confess to the people his crime, which was seconded by others that stood by, saying, There was no repentance without public confession. Mr. Berry being thus pressed again, he declared (otherwise I believe he would not have said any thing, but have gone out of the world without speaking one word of his innocency, or the murder; for he seemed to be, both before and after, when pressed again to confess, to be averse to it) he was as innocent as the child that is new born. Presently the sheriff stopped him from saying any thing more, and told him, he was not to suffer him there to defame an honourable court, but if he had any other thing to say, he might: He answered, he did not blame either judge or jury, (and had before at first prayed, as for the king and queen and church, so for the magistrates, that God would protect them in their duty), but for his accusers, he must say they had done him wrong, for he was not guilty of that for which he suffered; but he prayed God to forgive them, and that his death might be the last innocent blood that might be shed in the land; and prayed that his might never cry for judgment. After which, Mr. Ordinary prayed for him, which was very uneasy to him, and he desired him not to do it. Then he desired me to pray for him; after which, I did not hear him say any thing, but left him praying: And when the cart was drawing from under him, he lifted up his hands towards heaven, and said, "As I am innocent, so receive my soul, O Lord Jesus."

248. The Trial of Mr. SAMUEL ATKINS, at the King's-Bench, for being accessory to the Murder of Sir Edmundbury Godfrey :
31 CHARLES II. A. D. 1679.

ON Saturday the 8th of February, 1679, Mr. Samuel Atkins was brought from Newgate to the bar of the Court of King's-Bench at Westminster, to be arraigned as accessory to the murder of sir Edmundbury Godfrey, which was done in this manner :

Clerk of the Crown. Samuel Atkins, hold up thy hand (which he did). Thou standest indicted by the name of Samuel Atkins, late of the parish of St. Mary le Strand, in the county of Middlesex, gent. for that whereas on the morrow of the Purification of the blessed Virgin Mary, before our sovereign lord the king, at Westminster, by the oath of twelve jurors, good and lawful men of the said county, tried, sworn, and charged to enquire for our sovereign lord the king, and the body of the said county, Robert Green, late of the parish aforesaid, in the county aforesaid, labourer; Henry Berry, late of the same parish and county, labourer; Lawrence Hill, late of the same parish and county, labourer; — Girald, late of the same parish and county, clerk; Dominick Kelly, late of the same parish and county, clerk; and Philibert Vernatt, late of the same parish and county, labourer; are indicted, for that they not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, the 12th day of October, in the 30th year of the reign of our sovereign lord Charles 2, by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, &c. at the parish of St. Mary le Strand aforesaid, in the county of Middlesex aforesaid, in and upon sir Edmundbury Godfrey, knt. in the peace of God, and of our said sovereign lord the king, then and there being, feloniously, voluntarily, and of their malice aforethought, did make an assault; and that he the aforesaid Robert Green, a certain linen handkerchief, of the value of sixpence, about the neck of the said sir Edmundbury Godfrey, then and there feloniously, voluntarily, and of his malice aforethought, did fold and fasten; and that he the said Robert Green, with the handkerchief aforesaid, by him the said Robert Green on and about the neck of the said sir Edmundbury Godfrey, in manner and form aforesaid folded and fastened, then and there him the said sir Edmundbury Godfrey did choke and strangle; of which said choking and strangling of him, the said sir Edmundbury Godfrey in manner and form aforesaid, he the said sir Edmundbury Godfrey then and there instantly died; and that the said Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt, then and there feloniously, voluntarily, and of their malice aforethought, were present, aiding, abetting, comforting, and maintaining the aforesaid Robert Green, the

aforesaid sir Edmundbury Godfrey, in manner and form aforesaid, feloniously, voluntarily, and of his malice aforethought, to kill and murder; and so they the said Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly and Philibert Vernatt, in manner and form aforesaid, the aforesaid sir Edmundbury Godfrey, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace of our sovereign lord the king, his crown and dignity. And that thou the said Samuel Atkins, at or upon the said 12th day of October, and divers days and times before, the said Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt, the felony and murder aforesaid, at the parish aforesaid, in the county aforesaid, to commit feloniously, wilfully, and of thy malice aforethought, didst command, counsel and abet; and knowing the said Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt, the felony and murder aforesaid, in manner and form aforesaid, feloniously to have done and committed, at or upon the said 12th day of October, and divers days and times after, at the parish aforesaid, in the county aforesaid, feloniously the said Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt, didst harbour, comfort, and maintain, against the peace of our sovereign lord the king, his crown and dignity. How sayest thou, Samuel Atkins, art thou Guilty as accessory to the said felony and murder whereof thou standest indicted, and hast been now arraigned, or Not Guilty?

S. Atkins. Not Guilty.

Cl. of the Cr. Culpit, how wilt thou be tried?—*S. Atkins.* By God and my country.

Cl. of the Cr. God send thee a good deliverance.

S. Atkins. My lord, I do humbly desire, that the several examinations taken concerning this business, may at my trial be brought into the Court.

L. C. J. (Sir William Scroggs.) This is to be left to Mr. Attorney to do in it as he pleaseth; for he is to take care of the king's evidence.

S. Atkins. I only desire, my lord, that they may be brought in. Mr. Recorder had some of them taken before him.

Recorder (Sir George Jefferies.) To satisfy this gentleman, my lord, whatever examinations were taken before me shall be brought.

L. C. J. Why, Mr. Atkins, do you know nothing of this business, that you are so willing to have all the evidence brought in against you?

Atkins. My lord, I know nothing of it at all.

L. C. J. Are you a papist, Mr. Atkins?

S. Atkins. No, my Lord, I am not.

L. C. J. Were you never one?

S. Atkins. No, I never was one, nor I hope never shall be. When is it that your lordship pleaseth to have me tried, for I have lain these sixteen weeks in prison, and do earnestly desire my trial.

L. C. J. You shall be tried as soon as we can when Mr. Attorney thinketh fit. We must try the others on Monday; and if there be time afterwards you may be tried then: however, captain Richardson shall have a rule to bring you up then.

S. Atkins. I humbly thank your lordship.

Then he was carried back by the keeper, and accordingly on Monday following he was brought up; and after the trials of Green, Berry, and Hill, were over he was sent to the bar.

February 10, 1679.

L. C. J. Mr. Atkins, have you any bail ready?

S. Atkins. No, my Lord, I am prepared for my trial, if your lordship pleaseth, but not with bail.

L. C. J. Ay, but, Mr. Atkins, it is the latter end of the term, and many people's livelihoods lie at stake. We cannot lay aside all business for yours.

S. Atkins. My Lord, my life lies at stake, and I have been under severe imprisonment a long time. I humbly pray I may be tried; besides, I have many witnesses, who have remained in town on purpose to give evidence for me ever since the last term. I hope my trial will not take up much time.

Justice Dolben. If you have so many witnesses, it cannot be soon over.

S. Atkins. I have many ready; but hope I shall have occasion to use only a few.

L. C. J. Mr. Atkins, we cannot do it, you must be content; you shall be tried at the sessions. Pray how long is it to it?

Recorder. It is about three weeks my Lord.

L. C. J. That indeed will be too long, but in the mean time you shall be bailed.

S. Atkins. I submit, my Lord; I think I have bail here. [Mr. Atkins was here calling his bail.]

L. C. J. Come then, name them.

Captain Lloyd. My Lord, I am a witness on behalf of this gentleman, and cannot possibly be in England a fortnight hence.

S. Atkins. My Lord, this is a captain of one of the king's ships, and his occasions will indispensibly call him away, and this is the case of several others of my witnesses.

L. C. J. Well, I do not know; if it be so, you shall be tried to-morrow; and so bring him up very early, [Speaking to Captain Richardson.]

And so Mr. Atkins went from the bar, and was brought up thither again on the morrow; being Tuesday, when his trial proceeded thus:

February 11, 1679.

Cl. of the Cr. Crier, make proclamation.

Crier. O Yes! If any one can inform our sovereign lord the king, the king's serjeant at

law, the king's Attorney General, or this inquest now to be taken of Samuel Atkins the prisoner at the bar, his being accessory to the felony and murder whereof Robert Green, Henry Berry, Lawrence Hill, and others stand indicted, and as accessory of which said felony and murder the said Samuel Atkins stands indicted, and hath been arraigned, let them come forth, and they shall be heard, for now the prisoner stands at the bar upon his deliverance.

Att. Gen. (Sir William Jones,) My Lord, I must inform your lordship, that there is another Indictment against Mr. Atkins as principal, which was preferred heretofore, but we have since thought fit to prefer another as accessory. Now to discharge him of the first, I desire he may be arraigned on that before his trial.

Cl. of the Cr. I did so intend to do, Mr. Attorney. Samuel Atkins, hold up thy hand, (which he did). Thou standest indicted by the name of Samuel Atkins, late of the parish of St. Clements Danes, in the county of Middlesex, gentleman, for that thou, together with — Welch, and — Le Faire, of the said parish and county, gentlemen, not having the fear of God before your eyes, but being moved and seduced by the instigation of the devil, the twelfth day of October, in the thirtieth year of the reign of our sovereign Lord Charles 2, by the grace of God of England, Scotland, France and Ireland King, defender of the faith, &c. with force and arms at the parish aforesaid, in the county aforesaid, in and upon sir Edmundbury Godfrey, knight, in the peace of God and of our said sovereign lord the king, then and there being feloniously, wilfully, and of your malice aforethought, did make an assault, and that thou the said Samuel Atkins, a certain linen cravat, of the value of one penny, about the neck of the said sir E. Godfrey then and there feloniously, wilfully and of thy malice aforethought, didst fold and fasten, and that thou the said Samuel Atkins with the said cravat, so by thee the said Samuel Atkins about the neck of the said sir E. Godfrey fastened and folded as aforesaid, then and there the said sir E. Godfrey, feloniously, wilfully, and of thy malice aforethought, didst choke and strangle; of which said choking and strangling of the said sir E. Godfrey by thee the said Samuel Atkins, in manner and form aforesaid done and committed, the said sir E. Godfrey, in the parish aforesaid, in the county aforesaid, instantly died, and that the aforesaid — Welch, — Le Faire, feloniously, wilfully, of their malice aforethought, were then and there present, aiding, assisting, abetting, comforting and maintaining thee the said Samuel Atkins, the felony and murder aforesaid, in manner and form aforesaid, to do and commit. And that so thou the said Samuel Atkins, with the aforesaid — Welch and — Le Faire, the said twelfth day of October at the parish aforesaid, in the county aforesaid, the said sir E. Godfrey, feloniously, wilfully, and of your malice aforethought, did kill and murder, against the peace of our sovereign lord the king, his crown and dignity. How sayest

thou, Samuel Atkins, art thou guilty of the felony and murder whereof thou standest indicted and hast been now arraigned, or, not Guilty?

S. Atkins. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

S. Atkins. By God and my country.

Cl. of Cr. God send thee a good deliverance. Samuel Atkins, hold up thy hand (which he did). Those men that you shall hear called and shall personally appear, are to pass between our sovereign lord the king, and you, upon the trial of your life and your death. If therefore you will challenge them, or any of them, your time is to speak unto them as they come to the book to be sworn, and before they be sworn. Call the jury, Crier, and make an O yes.

Crier. O yes! You good men that are impannelled to inquire between our sovereign lord the king and Samuel Atkins the prisoner at the bar, answer to your names.

Cl. of Cr. Sir John Cutler.

Crier. Vous avez. Sir John Cutler, look upon the prisoner. You shall well and truly try, and true deliverance make between our sovereign lord the king and the prisoner at the bar, whom you shall have in your charge, and a true verdict give according to your evidence. So help you God. And so the rest were sworn. The names of the twelve were these: Sir John Cutler, Michael Arnold, James Partridge, Thomas Cassee, Thomas Gostwick, John Wells, Ambrose Arnold, Rainsford Waterhouse, John Searle, Richard Pagett, William Waite, Arthur Blyth.

Cl. of Cr. Crier, count these. Sir John Cutler.

Crier. One, &c.

Cl. of Cr. Arthur Blyth.

Crier. Twelve good men and true, stand together and hear your evidence; you that are sworn hearken to the record, you that are not sworn stand down.

Cl. of Cr. Samuel Atkins, hold up thy hand (which he did). You that are sworn, look upon the prisoner, and hearken to his cause. You shall understand that he stands indicted by the name of Samuel Atkins, late of the parish of St. Clement Dane in the county of Middlesex, gentleman; for that he, together with — Welsh, — Le Faire, &c. (*prout* in the second indictment *mutatis mutandis*) against the peace of our sovereign lord the king, his crown and dignity. Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his trial doth put himself upon God and the country, which country you are. Your charge is to enquire whether he be guilty of this felony and murder whereof he stands indicted, or not guilty. If you find him guilty, you are to inquire what goods and chattels, lands or tenements he had at the time of the felony and murder committed, or at any time since. If you find him not guilty, you are to inquire whether he did fly for the same; and if you find that he fled for it, you are to inquire of his goods and chattels, as if you had

found him guilty; if you find him not guilty, nor that he did fly for it, say so and no more, and hear your evidence.

Att. Gen. My lord, I am informed by Mr. Ward of the Crown-office, the prosecutor's clerk, that they have not sued forth a *venire facias* upon this indictment as principal; and therefore the jury cannot inquire of that at all, but must be discharged of it. Our writ is only for the Indictment for being accessory.

Cl. of Cr. If you make the writ 'de quibusdam felonis et accessariis,' and seal it a-new (which may be done presently, the seal being it the hall), it will do for both.

L. C. J. Do so, then Mr. Ward, that both may be dispatched. [Which was done accordingly.]

Cl. of Cr. Samuel Atkins, hold up thy hand again (which he did). You of the jury, look upon the prisoner, and hearken to his cause. You shall further understand, that he stands indicted by the name of Samuel Atkins, late of the parish of St. Mary le Strand, &c. (*prout* in the first indictment *mutatis mutandis*) against the peace of our sovereign lord the king, his crown and dignity. Upon this indictment he hath been arraigned, and thereupon pleaded Not Guilty, and for his trial hath put himself upon God and his country, which country you are. Your charge is to inquire whether he be guilty of this felony as accessory to the said Robert Green, &c. or not guilty. If you find him guilty, &c. (*sicut antea*.) Crier make proclamation.

Crier. O yes! If any man will give evidence on behalf of our sovereign lord the king against Samuel Atkins, the prisoner at the bar, let them come forth, and they shall be heard, for the prisoner stands at the bar upon his deliverance; and all others that are bound by recognizance to give evidence against the prisoner at the bar, let them come forth and give their evidence, or else they forfeit their recognizance.

Serjeant Stringer. May it please your lordship, and you gentlemen of the jury, Samuel Atkins the prisoner at the bar stands indicted here of two facts by two indictments; the one as principal in this murder, the other as accessory. The first of which we shall lay aside, and of his being the murderer give no evidence; and so, gentlemen, you must find him not guilty of that. But as to the indictment as accessory, that sets forth, that whereas Robert Green, Henry Berry, Lawrence Hill, and others, on the 12th of October last, at the parish of St. Mary le Strand, in your county, did make an assault on the person of sir Edmundbury Godfrey, and that Robert Green did throw about the neck of sir Edmundbury a linen handkerchief, and twisted and folded it about his neck, by which twisting and folding the said Green did strangle the said sir Edmundbury, of which strangling he instantly died: and we say, gentlemen, that the prisoner at the bar is indicted as one that was privy, knowing, consulting, and abetting to the

commission of this murder, and that after the murder committed (for the acts are connected) he did receive, harbour, comfort, and maintain the murderers. To this he hath pleaded Not Guilty. If we prove him guilty, we doubt not you will find him so.

Att. Gen. May it please your lordship, and you gentlemen of this jury, Mr. Atkins the prisoner is indicted upon two indictments; the one is for being a principal in this murder, but upon that we can give no evidence, for that was preferred before we had that full and plain evidence, which now we have of this fact by the testimony of Mr. Praunce. And I must say thus much to Mr. Atkins, that he hath cause to bless God, that ever Mr. Praunce made this discovery; for I assure you, without that, there are those circumstances, probabilities, and presumptions, that he might have gone in great danger of being accounted a principal in the murder. But now, my lord, that matter being fully and plainly discovered by Mr. Praunce's testimony, that no man may bear a greater burden than he deserves, we acquit him as to that indictment, and now charge him only as accessory. And in that you will find the evidence to be such, as might give us just cause to prefer the first indictment.

For, my lord, we shall make it out, that Mr. Samuel Atkins did come to a gentleman of his own surname, one Mr. Charles Atkins (who I think was of kin to him, but whether he was, or not, is not material), and to him he did complain of the proceedings of sir E. Godfrey, that he was a man too active, and that he was in no sort to be permitted to live; for if he were, he would be very prejudicial to some he was concerned for. And at the same time he did inquire after some bold man, I think one Child particularly, who had been with that Charles Atkins aboard the fleet, whether he had behaved himself stoutly there; and finding him to be a resolute person, he desired Mr. Charles Atkins to send for him, and send him to him, and he would employ him; and afterwards Child owned to Mr. Atkins, that he had been there.

L. C. J. To which Mr. Atkins? To the prisoner?

Att. Gen. To Mr. Charles Atkins, who is the witness, Samuel Atkins is the prisoner. It was Samuel that complained to Charles of sir E. Godfrey; inquiring after the courage and resolution of Child, and ordered Charles to send him thither: and afterwards Child, as he said, went thither; and when he came back he did discourse with Charles Atkins, desiring him to join with them in the killing of a man, and did propose a great reward to him so to do.

This, my lord, was the discourse precedent to the fact. But now to shew to your lordship and the jury, that as the prisoner Samuel Atkins and he did design, the thing should be done, so he did pursue that design, and bear a part in it, and was privy to it, and knew of it; we shall prove, that Mr. Bedlow, when he saw

the body after it was murdered, which happened, as was proved to you yesterday, on the 12th of October last, found it removed from the place where by the testimony of Mr. Praunce he was first carried, into another room, and there by the help of a dark lanthorn several people then in the room saw him: Amongst whom, I say, Mr. Bedlow was one; and Mr. Praunce speaks to the same matter, and this was on the Monday night following. And I think we have a sufficient proof that Mr. Samuel Atkins was one in the room, that did see the body, and was consulting with them how to dispose of it: For we have this proof against him. Bedlow finding a young man there, whom he did not know, he went up to him, desiring to know his name; he tells him who he was, one Atkins, and describes himself by a particular circumstance to whom he had relation, and Mr. Bedlow will tell you so much, that though the light was not very great, yet it was enough to let him see the faces of those he took notice of, and that this prisoner was there. And if this be true, it will have the effect of proving him guilty as accessory, either before or after the fact.

This will be the course of our evidence, our witnesses are not many, and therefore our proof will not be long. We shall now call them, and when they have done, submit it to your lordship and the jury; and first we call Mr. Charles Atkins.

Crier. Mr. Charles Atkins, lay your hand upon the book. The evidence which you shall give for our sovereign lord the king against Samuel Atkins, the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth; so help you God.

Recorder. My lord, this is Charles Atkins, whom we desire to begin withal. It was he that had the discourse first with Samuel Atkins about Child, and afterwards with Child about the murder. Pray, Sir, tell the discourse you had with Child, and the time when.

C. Atkins. My lord, it was much about the time that his majesty went to Newmarket.

L. C. J. That was in September, I think.

C. Atkins. No, my lord, it was in the beginning of October. I cannot speak to a day, I cannot very well tell that, but it was much about that time. I had been with sir John Williams about the same business that I came to speak with Mr. Atkins about (this gentleman whom I am forced to be witness against on the king's account; but otherwise I have a great regard for him), and coming there I asked the porter below stairs whether Mr. Atkins were in the house.

L. C. J. At what house was it?

C. Atkins. At Derby-house in Channel-row. He said, Yes. So I went up stairs, and found him there all alone in the study, where he generally writes near another study, where was the clerk that usually wrote with him, but he was alone; it was in the afternoon: And after I had spoken to him, I desired him that he

would walk out into the other room. And at the window, which is next the door that is to the office, he and I stood talking together. After we had discoursed a little about the plot, he told me, that sir E. Godfrey had very much injured his master; and if he lived would be the ruin of him. And thereupon I have heard that his master was questioned in the House of Commons, asked him whether he were a parliament man, thinking that might be the occasion of their questioning him: No, said he. But then he went off from what we were then discoursing, and he desired me to be secret, and went on upon that account in several particulars, that I cannot now exactly remember. And as we were talking he broke off his discourse short, and asked me if I knew Mr. Child: What Child? said I, He that I used to meet at the Three Tobacco-Pipes? Said he, It is that Child that you recommended to me: For I had recommended such a one to him to be purser of a ship, by the means of one Owen. Said he, Is he a man that is stout, or to be trusted with a secret? Said I, As to his valour I know nothing of it, but he has a very good character. Then said he, When you see him send him to my master; but as for myself, I desire not to have him ask for me when he comes thither. I could not meet Child that night, but I did the next night; and so he said he would go thither. And afterwards I met him again, and he said he had been there, and falling into discourse, he would have engaged me to join in the murder of a man.

L. C. J. What did Child say to you? What is Mr. Atkins's master's name?

C. Atkins. Mr. Pepys.

L. C. J. What Mr. Pepys of the Navy?

C. Atkins. Yes, my Lord.

L. C. J. Had Child been with him?

C. Atkins. My Lord, he told me so.

L. C. J. What did he say when he came from Mr. Pepys?

C. Atkins. He told me nothing of Mr. Pepys, but he would have engaged me to join in the murder of a man. I was then just coming from walking, and met him in Holborn-fields, near the Three Tobacco-Pipes, and he desired me to walk with him, which I was unwilling to do. He told me he had something private to say to me; I told him there was a shed in the back part of the house that was private enough; and thither we went; and I sat with my back to the house, and he with his to the garden. And as soon as the master of the house had brought a pot of ale, he fell into discourse, and told me he believed, that by reason of the necessity of my fortune, and the troubles I lay under, and my want of money, I would undertake a business that might relieve my wants. I replied, any thing that was honourable I would undertake, or that became a gentleman; but to rob on the highway, or any thing of that nature, that was base, I would not do it. He answered me that it was a thing of greater moment than that; he told me it was the killing of a man. I immediately utterly denied to join

with him in it; he gave me eight or nine days to consider of it, and I should have a great reward, if I would join with them. I heard of him no more for a considerable while, and then I met him at the Three Cans or the Six Cans, Holborn, and renewing his discourse, he told me, if I would not agree with them to help to murder him, yet if I would conceal it, I should have 100*l.* brought to my chamber; but if I did reveal it, I should not outlive it.

L. C. J. This Child said?

C. Atkins. Yes, my lord.

L. C. J. Who were they were to be with you, captain Atkins, do you know?

C. Atkins. I do not know, my Lord, he did not tell me who they were.

L. C. J. Pray tell us again: What was the first discourse you had with Mr. Sam. Atkins?

C. Atkins. I came to borrow a little money of him, and it was at the great window in the great room above stairs, the very window next the office where the prisoner writes, and there he began his discourse. We were talking of this plot that was discovered, and something about Coleman, but the particulars I cannot remember, and then he fell into discourse about Sir Edmundbury Godfrey.

L. C. J. What discourse was it?

C. Atkins. That he had injured his master, and if he lived, he would ruin him. I asked him whether he was a member of the House of Commons, because I knew his master had been there questioned for his religion. No, said he; but then he went off from that, which he was then talking of, which was concerning the Plot and sir Edmundbury Godfrey, and asked, if I knew where there was a stout man, and particularly enquired about Child, and bid me send him to his master.

L. C. J. Did he fear Sir Edmundbury Godfrey would ruin his master, by discovering something about the Plot?

C. Atkins. I understood so.

L. C. J. Why, he did not say that his master knew of it, did he?

C. Atkins. No, not to me.

L. C. J. And what did he talk of killing any body?

C. Atkins. No, he did not mention it to me.

L. C. J. Then all that he said to you was, that Sir Edmundbury Godfrey had very much injured his master, and if he lived would ruin him; and then asked, if you knew a man that would be stout and secret, and bid you send him to his master, but not ask for him.

S. Atkins. Pray, Mr. Atkins, will you tell what time that discourse was?

C. Atkins. I cannot tell that exactly. It was two days before Sir John Williams went into the country. It was about the time of the duchess her going beyond sea.

S. Atkins. Was there no body by when we had that discourse?

C. Atkins. There was another in a study hard by, I cannot tell exactly who.

S. Atkins. Do you know his name when you hear it? Was it Mr. Lewis?

C. Atkins. I think it was so, I cannot exactly tell.

L. C. J. What day was it, as near as you can?

C. Atkins. I cannot say what day it was; it was about seven or eight days in October, as I can remember.

L. C. J. You say it was about the time of the Duchess her going over into Holland.

C. Atkins. I think so. I cannot positively remember.

Sol. Gen. Had you any reward offered to you for killing of a man?

C. Atkins. Yes, I had by Child.

S. Atkins. By whom was the reward to be paid?

C. Atkins. He did not tell me.

Att. Gen. Now, my lord, because it seems a strange thing, that Mr. Atkins, who says he is a Protestant, should be engaged in this business, we have a witness here to prove, that he hath been seen often at Somerset-house at Mass, and so he is a party concerned; for those that are of that party, it was their interest to cut him off. And that is this boy. [Pointing to a boy that was then brought in.]

L. C. J. How old are you, child?

Boy. About seventeen.

Just. Wild. Do you know what, if you swear false, will become of you?

Boy. I will not swear false.

Justice Wild. What, if you do swear false, will become of you?

Boy. I shall be damned.

Att. Gen. He is as like to speak truth as another.

S. Atkins. What religion are you of, boy?

Boy. A Protestant.

S. Atkins. Do you know me?

Boy. No.

Justice Wild. Sir, you are too bold with the witnesses.

L. C. J. Swear him.

Att. Gen. Pray hold. My Lord, this is a witness that Mr. Ward brings from below. I have him not in my brief. I desire, before they swear him, that he would give an account whether he knows the prisoner or no.

Boy. No I do not. [And so the boy was carried off, with some expressions of Mr. Attorney's displeasure to Mr. Ward for bringing him in.]

Recorder. My lord, I perceive it was a mistake; it was some body else. We will proceed to other evidence.

Sol. Gen. (Sir Francis Winnington.) We have hitherto gone upon the evidence to prove that Mr. Atkins sought out for a stout man, and when he had found one he thought was for his purpose, he bid him send him to his master. This stout man, Child, would have engaged the other witness in a murder; and it is very probable what that murder was, to wit, the murder of sir Edmundbury Godfrey; for we shall prove that the prisoner was aiding and assisting to carry off the body. And for this we call Mr. Bedlow.

VOL. VII.

Then Mr. Bedlow was sworn.

Recorder. Pray, sir, will you tell my lord and the jury, whether you were in the room where the body lay, and in what company you saw it?

Bedlow. Your lordship had an account yesterday, how Le Faire came to acquaint me, that such an one was murdered, and that they intended so and so to dispose of the body. When I came to meet him at Somerset-house, I asked him who were to be concerned in carrying him off. He told me, it was a gentleman, one Mr. Atkins. I thought it might have been this gentleman [pointing to captain Atkins] whom I had known several years since, and so I enquired no further, but remembered he told me so; and when I came into the room, there was a great many there and some of them their faces I did see, I asked a young gentleman whether his name was not Atkins, and he said Yes; then I asked him, if he were Mr. Pepys's clerk. He answered Yes, and added, I have seen you often at my master's house. There was a very little light, and the man was one I was not acquainted with, though I had been often at the house, but could never meet with him, and yet the man said, 'he had seen me often there.' So that it is hard for me to swear that this is he. And now I am upon one gentleman's life, I would not be guilty of a falsehood to take away another's. I do not remember that he was such a person as the prisoner is; as far as I can remember he had a more manly face than he hath, and a beard.

L. C. J. You do well to be cautious, Mr. Bedlow.

Justice Wild. Pray, what store of people were there?

Bedlow. I believe there were seven or eight. Some there were that I knew.

L. C. J. Who were those?

Bedlow. Le Faire and Praunce. I remember very well, I asked Mr. Atkins this question, are you Mr. Pepys's clerk? He said yes: I have seen you often at my master's house.

L. C. J. And that was all the discourse you had with him?

Bedlow. Yes, for I was but a very little while there.

L. C. J. But you cannot charge the prisoner to be him?

Bedlow. I do think he had a more manly face than the prisoner has, and a beard.

L. C. J. So you think it rather was not he, than it was he?

Bedlow. I cannot say it was he? nor I could not at first. I did not know but it might be some one that did assume his person to put me off.

Justice Wild. Mr. Bedlow, pray let me ask you one question. Did you never know of any design to murder Sir E. Godfrey, till Le Faire spoke to you to carry him off?

Bedlow. I knew not till I saw him murdered. They told me I should help to carry off the

R

body of one that was murdered, but I could not imagine whom.

L. C. J. But you knew that they were to murder a man?

Bedlow. Yes, my lord, but I knew not whom.

Justice Wild. But you were appointed to insinuate yourself into sir E. Godfrey's acquaintance?

Bedlow. Yes, my lord.

Justice Wild. And upon what errands were you sent?

Bedlow. To take out warrants for the peace.

Justice Wild. And did you take out any?

Bedlow. Yes, against some persons, and there were none such.

Recorder. Now, if your lordship pleases, I desire Mr. Bedlow to let us know, whether he did ask the person that said he was Mr. Atkins any other questions?

Bedlow. No, I did not.

Recorder. How came you to ask him no other questions, but only whether he were Mr. Pepys's clerk?

Bedlow. Because I never heard of any of that name. But he and this gentleman [pointing to captain Atkins], whom I know very well, and I could not tell but it might be he.

L. C. J. Here is the thing. Le Faire told him one Atkins should help him to carry the body off; and when he came into the room, that person told him his name was Mr. Atkins, and then he asked if he were Mr. Pepys's clerk for he could not tell but that it was Charles Atkins.

Recorder. We have another reason, my lord, for the asking that question. Pray what discourse had you about any commission?

Bedlow. I had often been with captain Ford at Mr. Pepys's about his commission, and I had often desired to speak with Mr. Pepys or Mr. Atkins his clerk, but I could never find either of them at home; and therefore when I met that young gentleman there, I asked him whether he were Pepys's man and he said yes. I asked him if he knew me, and he told me yes. I had been often at his master's house with captain Ford, but I had never seen Mr. Atkins.

Recorder. What did he tell you besides?

Bedlow. That was all the discourse we had.

S. Gen. Did you ever hear of any other Atkins that lived with Mr. Pepys?

Bedlow. No, none at all. And the same testimony I give now, I gave at the first. And my lord, I could not be positive before the lords of the committee, and I cannot be positive now.

Att. Gen. Indeed he was never positive at the first. Now, my lord, if you please, we will call a witness to prove, that that day, when this was supposed to be done, Mr. Samuel Atkins had bespoke a dinner at Mount Horeb, but he had some other business, and did not come, and lost the price of a good dinner. Pray swear Thomas Walton. [Which was done.]

Recorder. Pray, sir, what can you say?

Walton. As to the body of the cause, I have nothing to say. I have not seen Mr. Atkins

these two years; but there having been some friendship between us, I had a mind to see him, and sent a particular friend to desire him to appoint a meeting.

L. C. J. When?

Walton. At Mount Horeb.

Att. Gen. My lord doth not ask where, but when, at what time?

Walton. At two of the clock.

Att. Gen. What day?

Walton. The 12th of October.

L. C. J. How come you to remember the day?

Walton. I will tell you my reason, my lord. When I heard that this gentleman was in this unhappy affair, I said, How much better had it been for him to have been in my company, that I might have vouched for him? But you [pointing to the prisoner] did appoint, you know, sir, to meet me. And I took cognizance of this affair speaking to a particular friend.

L. C. J. How long after this?

Walton. When the tidings were, he was taken prisoner.

Att. Gen. A great while ago, my lord.

L. C. J. How long after sir E. Godfrey was murdered?

Att. Gen. About a fortnight.

L. C. J. Was there a dinner bespoke?

Walton. I bespoke one for him; he knew nothing of it.

Att. Gen. Did he appoint to be there that day?

Walton. Yes, he did. I think he will not deny it.

Att. Gen. Did you send a messenger to him?

Walton. Yes, I did.

Att. Gen. What answer had you?

Walton. He brought me word, he would come at two of the clock to me.

Att. Gen. Did you bespeak the dinner for him, and did you pay for it?

Walton. I never gave him any account what was to be for dinner.

Att. Gen. But let this evidence go as far as it will. This gentleman had a mind to meet him; sent a messenger to him to meet him: he appointed at two o'clock; and he bespoke a dinner for him, but he came not. Now we use it thus. I desire to know of him, when was the message sent? How long before that day? or was it the day before?

Walton. It was a week before.

Att. Gen. What day before?

Walton. It was a week before.

Att. Gen. Can you remember what day?

Walton. I do not, for I had no dissatisfaction because he did not come.

S. Atkins. Will your lordship give me leave to ask him one question? I own, sir, you sent to me by a school-fellow, about a week before, and desired me to appoint a day to meet you, and I appointed this day, and that for this reason; I knew my master would be then out of town, and so I thought I could conveniently meet you; but it being ten days before, I entirely forgot it: but can prove by several wit-

nesses where I did dine that day, which I desire may be called. But now, my lord, this gentleman is upon his oath, who is a protestant, and was my school-master, I desire him to declare whether I was bred a protestant, or no; and whether my friends were so or no?

L. C. J. How was he bred, sir?

Walton. He was bred up in the protestant religion, my lord.

L. C. J. Were his father and mother protestants?

Walton. Yes, my lord, they were so, and I know them very well.

S. Atkins. Pray, sir, declare whether I was not only bred a protestant, but whether I was not so also when I left your school?

Walton. Yes, my lord, he was always a protestant, and a very zealous one too.

L. C. J. There is very much in that.

Justice Wild. Where is this Mount Horeb?

Recorder. It is in Pudding-lane, at one Mr. Appleby's.

L. C. J. Well, have you any thing more, Mr. Attorney?

Att. Gen. No, my lord, I have no more to say, till I hear what defence the prisoner makes.

L. C. J. Then, Mr. Atkins, you have liberty to defend yourself.

S. Atkins. My lord, and Gentlemen of the Jury, I hope I shall in my defence proceed very inoffensively towards God and towards this Court. First, towards God (before whom I am, in whose presence I must appear, and before whom I can protest my innocence as to what is charged upon me), in that I shall declare nothing but what is true: And towards this Court in the next place, because I intend to deliver myself with all the respect and submission to it that becomes a prisoner. My lord, this gentleman, Mr. Atkins who hath brought this accusation against me, is a man whom I have kept from perishing, I suppose he will own it himself; I petitioned, solicited for him, and was instrumental in getting him out of prison, for a fact which I shall by and by tell you. And though this, my lord, may seem against me, yet by and by—

L. C. J. Hold, you mistake, Mr. Atkins, he does you no mischief at all, for he saith no more than that he hath been discoursing with you about the plot, and you said sir Edmund-bury Godfrey had very much injured your master; and that you desired to know if he were acquainted with a stout man; and asked particularly of Mr. Child, and bid him send him to your master; and he said afterwards, he had been there, and would have engaged him to join in a murder. All which is nothing to the purpose.

S. Atkins. But I never had any such discourse with him my lord.

L. C. J. If you had, or had not, it is no matter: you need not labour your defence as to any thing he says.

S. Atkins. I protest before God Almighty, I know nothing of it.

Justice Dolben. But what say you to Mr.

Bedlow's testimony; Did you see the body of sir E. Godfrey at Somerset House?

S. Atkins. No my lord; I am so far from that, that in all my life I was never in the house.

L. C. J. Then call a couple of witnesses to prove where you were that Monday night, the 14th of October, and you need not trouble yourself any further.

S. Atkins. There is captain Vittles, and his whole company.

L. C. J. Can any of these say where you were the 14th of October? If they can, a couple of them is enough. Who is this?

Atkins. This is the captain, my lord.

L. C. J. What is your name?

Capt. Vittles. My name is Vittles.

L. C. J. Do you know Mr. Atkins the prisoner?

Vittles. Yes, very well.

L. C. J. How long have you known him?

Vittles. These 14 years.

L. C. J. Can you tell where he was the 14th of October?

Vittles. I can tell by several circumstances, that your lordship shall understand, that I do remember the day.

L. C. J. Why, you cannot tell what day of the week it was?

Vittles. Yes, I can, it was of a Monday.

L. C. J. Where was he on a Monday?

Vittles. The king was pleased to command me to go to Antwerp, to carry over some officers of the king's to the garrison; I returned back the 6th of October, which was Sunday.

Justice Jones. How come you to remember the days so exactly?

L. C. J. Mariners are very exact and punctual; they keep accounts of every day, and have journals of all passages.

Vittles. Ay, my lord, and I have it here in my pocket: The 6th day I arrived at Greenwich, which was sabbath day, and that day I would not come ashore, but I let it alone while Monday, which was the 7th day; then my lord I went and appeared, and gave an account to the Secretary of what I had done, according to my instructions, to see whether he had any further service to command me. At present the Secretary told me, No; so I told him I would go down to the Yatch, and wait his majesty's commands; and there I stand till Thursday; and on Friday the Secretary, I think, was going out of town to Newmarket, and so I could receive no orders from him, but was to stay till he came back. On the Monday following I came up about eleven of the clock, and I met with Mr. Atkins at the office he had at his master's the Secretary's; said I, I am glad you are at home; and, said he, I am glad you are not gone, for there are a couple of gentlewomen that desire to see a yatch, and if you will go down I will come down too, and bring down my friends by and by: Said I, I am glad I am in a way to serve you, and you shall be welcome to what I have. So I disappointed two or three friends that I had appointed to meet at Billingsgate, that I might get my boat

ready. When I came aboard, I ordered my men to clean it, and I got ready some provisions, such as I had: But in the mean time my young lord Berkely and his men came to see the yatch in the afternoon, where she lay then at Greenwich, over against the college; and I being glad of such a gentleman's company, entertained him with a bottle or two of wine, and what the ship would afford, and when he went away, I fired five guns. And when he was gone, I was walking upon deck; and I wonder, said I, to my men who were with me, that Mr. Atkins doth not come; he told me he would be here with some friends; I will go a-shore if he does not come quickly. And so, if it shall like your honour, I stayed an hour longer; and, said I, if he doth not come in half an hour, I will go a-shore and I was ready to go, when I saw a boat at a distance, and then said, I will stay for I believe that is the boat; and it proved so. It was two of the clock when my lord went away, and it was then half an hour past four, or thereabouts. So when he came a-board his two friends came a-board with him, and went down into the cabin, and drank a glass of wine, such as we had; and the wine being good and just come from beyond seas, we drank till seven of the clock, and I would not let them go. Then said he, I will not keep the boat upon charge here. No, you need not, said I, my boat shall see you a-shore. So he discharged the boat, which was, I say, about seven o'clock, and so about eight or nine o'clock we had drunk till we were a little warm; and the wine drinking pretty fresh, and being with our friends, we did drink freely, till it was indeed unseasonable: I must beg your lordships pardon, but so it was; and at half an hour past ten, I ordered my men to go off with the boat of four oars, that belonged to the yatch, and that would go much swifter than any other boats, and I put him into the boat very much fuddled. Now, my lord, away goes he, with four of my men (they are here), and I ordered them, pray, said I, put a-shore Mr. Atkins and his friends where they will go a-shore. So I went to sleep when he was gone; and the next day in the morning, when the boat came aboard, said I, where did you put a-shore Mr. Atkins and the two gentlewomen? At Billingsgate, said they. Why so, said I? Which way would they get home? for I knew Mr. Atkins was very much in drink. Why, said they, the tide was so strong at the bridge, that we could not get through with our boat. Now it flowed that same night till twelve minutes past ten; so that it must be near half an hour past ten when they went away.

Justice Wild. What, it flowed there at past ten?

Vittles. Yes, it did.

L. C. J. Mr. Bedlow, what time of the night was it that you were at Somerset-house?

Bedlow. It was betwixt nine and ten.

L. C. J. He was on shipboard then.

Justice Wild. He was very sober, that you spoke withal, was not he?

Bedlow. Yes, very sober, my lord.

L. C. J. Then call another witness, one of your men, and we have done.

Vittles. Give the word for the boatswain Tribbett.

L. C. J. Did the women pledge you captain?

Vittles. Pledge me, my lord.

L. C. J. Ay, did they drink with you?

Vittles. Ay; and drink to us too, my lord.

L. C. J. Those be your men that stand there? [He, and several other of the ship's company were there.] Whither did you carry Mr. Atkins when your captain commanded you to set him ashore?

Tribbett. To Billingsgate.

L. C. J. What time of night came you there?

Tribbett. At half past eleven.

L. C. J. What time did you carry him from the yatch?

Tribbett. It was about half an hour past ten o'clock.

L. C. J. What day of the week was it?

Tribbett. It was on a Monday.

L. C. J. Well, you need not trouble yourselves any more.

Att. Gen. My lord, in this matter, it is in vain to contend in a fact that is plain. But I would desire (because some perhaps will make an ill use of it) that they would please to take notice, here is no disproving the king's evidence. For Mr. Bedlow did not at first, nor doth he now, charge him directly to be the man: so that whoever reports, That the king's evidence is disproved, will raise a very false rumour.

L. C. J. No, no; it is so much otherwise, that for all he hath said herein, he is the more to be credited in his testimony; and Mr. Atkins needed not to make any defence, but must have come off without any, upon what Mr. Bedlow says for him.

Att. Gen. So likewise for the first man, all that he says consists together, and may be true, and yet Mr. Atkins innocent.

L. C. J. So it may.

Att. Gen. I desire the company may not go away with a mistake, as if the king's evidence were disproved.

L. C. J. Not in a tittle.

Att. Gen. Then I have done, my lord.

L. C. J. No, I will tell you how it did arise. It arose from the jealousy of the murder of sir E. Godfrey, and persons were willing to lay hold on any opportunity to find it out. And Mr. Bedlow was told such a man should be his fellow to help him to carry away the body; and hearing of such a name, thought it possible it might be such a one; and he owning himself to bear that name, and to be Mr. Pepys's clerk, when he gave in his information, the people, who were put into such alarms as these, were very ready to catch at it. Therefore no body was to blame for pursuing Bedlow's evidence. He said nothing then, but what he says now, and that is nothing at all positive, which is all true, and yet Mr. Atkins doth appear to be a very innocent man in this matter.

Then the Jury consulted together at the bar, and agreed.

Cl. of the Cr. Gentlemen, are you all agreed of your verdict?

Omnes. Yes.

Cl. of the Cr. Who shall speak for you?

Omnes. Our Foreman.

Cl. of the Cr. Samuel Atkins, hold up thy hand. [Which he did.] Look upon him. How say you; is he Guilty of the felony and murder whereof he stands indicted, or Not Guilty?

Foreman. Not Guilty.

Cl. of the Cr. Did he fly for it?

Foreman. Not that we know of.

S. Atkins. God bless the king, and this honourable bench. [On his knees.]

Cl. of the Cr. Samuel Atkins, hold up thy hand. [Which he did.] Look upon the prisoner. How say you, is he Guilty of the felony, as accessory to the murder, as he stands indicted, or Not Guilty?

Foreman. Not Guilty.

Cl. of the Cr. Did he fly for it?

Foreman. Not that we know of.

S. Atkins. God bless the king and this honourable bench. [On his knees.]

Cl. of the Cr. Then hearken to your verdict, as the Court hath recorded it. You say, that Samuel Atkins is not guilty of the felony and murder whereof he stands indicted; nor that he did fly for it. And you say that he is not guilty, as accessory to the felony and murder whereof he stands indicted, nor that he did fly for the same; and so you say all?

Omnes. Yes.

L. C. J. Mr. Atkins, I should have been very glad that the rest, who have been condemned, had been as innocent as you are; and I do assure you, I wish all mankind had been innocent. For, if any Protestant had been guilty of such a thing as this, it would have grieved me to the very heart, that any Protestant should do such things, as those priests provoke their proselytes to at this day.

Capt. Vittles. My lord, here is his schoolmaster will give your lordship an account how he was bred and brought up, and what a good conditioned young man he was.

L. C. J. Well, well, captain, go you and drink a bottle with him.

Then Mr. Atkins went from the bar.

249. The Trial of DAVID LEWIS, a Jesuit, (pretended Bishop of Llandaff), at Monmouth Assizes, for High Treason: 31 CHARLES II. A. D. 1679. [Written by Himself.]

THE 28th of March, 1679, the assizes began at Monmouth, sir Robert Atkins being sole judge. A grand jury of gentlemen was returned by the sheriff, and called, against several of whom Mr. Arnold and Mr. Price excepted, and so put by, as such they conceived might befriend me; a challenge not known before; for in the case between the marquis of Worcester, and the tenants of Wentwood, upon a riot, Henry Williams, esq. and others would have excepted against some of that grand-jury, the same judge Atkins then positively said, It was ridiculous and not usual to challenge out of a grand-jury. At last a jury was sworn, and an indictment drawn up against me, upon the statute of the 27th Eliz. and preferred to the grand-jury. That evening, being Friday, I was arraigned upon that bill, to which I pleaded Not guilty. The next day, about ten of the clock in the morning, the judge came from the *Nisi prius* side, and sat at the crown side, and I at the same time being brought to the bar, the crier made proclamation for silence, that a jury for life and death might be impannelled, and I made my challenges; presently a jury from the other bar was called, which was not usual, and I to challenge, the judge telling me, I might challenge without hindrance; by guess I challenged three; but out of that *Nisi prius* jury called to the crown bar, and that by Mr. Arnold's own suggestion, who had a strong influence upon the judge as being his kinsman, and sitting at his right hand, divers

were excepted by Mr. Arnold; whereupon, to make up the jury, the judge commanded the high-sheriff to call in some, and he called many, and of those, still Mr. Arnold excepted, as either being of my neighbourhood, or acquaintance, for there being many in the country; the sheriff seeing so many of his calling excepted, he desired Mr. Arnold himself should call whom he pleased; whereat the judge checked the sheriff, and he said he was saucy; at last, with much difficulty, a jury was impannelled, a jury now contrived, of none but such as pleased Mr. Arnold, principal prosecutor against me, which was very hard, and an ignorant jury it was withal: the jury being impannelled, it was sworn, the indictment read, and witnesses called, thus:

Clerk of the Assizes. David Lewis, hold up thy hand. Here thou standest indicted of high-treason, by the name of David Lewis, for that thou, being a natural subject of the king of England, hast passed beyond seas, and hast taken orders from the Church and See of Rome, and hast returned back again into England, and continued upwards of forty days, contrary to the statute 27 Eliz. in that case made and provided, which by the said statute is high-treason. What hast thou to say for thyself? Art thou Guilty, or Not Guilty?

Prisoner. Not Guilty.

Clerk. By whom wilt thou be tryed?

Prisoner. By God and my country.

Clerk. God send thee a good deliverance.

Clerk. Crier, call William Price, Dorothy Jaines, Maney Trott, John James, Catharine Thomas. He calls them, and they all appear. Then says the clerk to the crier, swear them: and he sware them all.

Judge. (Sir Robert Atkins.) William Price, look on the prisoner, do you know him?

Price. Yes, my lord, I do know him.

Judge. What have you to say of him?

Price. My lord, about a year and a half ago I saw him at Mrs. Bartlet's house, at a place called Castle-Morton in Worcestershire, and there I heard him read Mass, I was at confession with him, and I received the Sacrament from him, according to that way.

Judge. Was there any altar, or any crucifixes or copes?

Price. Yes, my lord, that there were.

Judge. How many times did you see him?

Price. But that once, my lord.

Judge. Were you of that way then?

Price. Yes, my lord, upwards of 18 years.

Judge. What are you now?

Price. A Protestant, my lord.

Judge. Well, Mr. Lewis, what have you to say to this?

Prisoner. With your lordship's leave, I will answer all together.

Judge. Very good, you do well, it will be so much the shorter. Dorothy James, look on the prisoner, do you know him?

Dorothy. Yes, my lord.

Judge. What have you to say of him?

Dorothy. My lord, I saw him say Mass, take confessions, give the Sacrament, marry, christen, and heard him preach in the English and Welch.

Judge. Were there altars and crucifixes?

Dorothy. Yes, my lord, altars, crucifixes, chalices, and such other things belonging to that way.

Arnold. Did you see him give that they call Extreme Unction?

Dorothy. Yes, that I did, to my uncle, my father's brother.

Judge. Do you know what Extreme Unction is?

Dorothy. Yes, that I do, it is anointing sick people with oil, when they are dying.

Judge. It is right; that is another Sacrament of their church, grounding themselves upon these words of St. James, as I take it, 'If any be sick among you, let him be anointed.' But that was in the times of miracles only.

Arnold. Did he take upon him to free souls from purgatory?

Dorothy. Yes, that he did, and he had of me eight pounds in silver, and one piece of gold, to free my father's soul.

Prisoner. God is my witness, to my best knowledge, I never had one single piece of any money from her or her husband, upon any account whatsoever.

Judge. Have you any more to say?

Dorothy. No, my lord. [And with that she laughed at the bar.]

Judge. How now, woman! do you make a

laughing-game of it? Carry yourself more modest, for the gentleman is for his life, and it is no jesting matter. Well, William James, look upon the prisoner. Do you know the prisoner? and what have you to say of him?

Wm. James. Yes, my lord, I do know him, and I have seen him read Mass many times, and take confessions, and give the Sacrament, and christen, and marry.

Judge. Have you any more to say?

Wm. James. No, my lord.

Judge. Mr. Trott, what have you to say of the prisoner? Did you ever hear him read Mass? Was he reputed commonly a Jesuit, or Popish priest?

Trott. Yes, my lord, he was commonly reputed so, and I heard him often read Mass; and I saw him marry Mr. Gunter's daughter to Mr. Body.

Judge. Were you then of that religion?

Trott. No, my lord, I was deluded by my wife out of the Protestant religion, and was a Papist during her life-time.

Judge. Are you of that religion still?

Trott. No, my lord. When I saw their wicked designs to kill my gracious king, I abhorred their traitorous proceedings, and left them, and am now a Protestant, in which I shall continue.

Judge. You do well.

Arnold. My lord, there is Mr. Roger Sayes, a very material witness.

Judge. Crier, swear him. Mr. Sayes, what have you to say against the prisoner?

Sayes. My lord, I was employed with others, on the 16th of November last, to go and search for him, and we found him, and took him, with several Popish things, which we carried away, &c.

Judge. Did you see him at Mass?

Sayes. No, my lord.

Judge. Then sit down. What have you to say, John James? What, are you dead, or afraid to be whipt? Look upon me, and speak out.

John James. He married me and my wife.

Judge. Is that all you know? Did you see him at Mass?

John James. I know no more.

Judge. Catharine Thomas, did you see him at Mass? Why do not you speak, woman? Speak, woman.

C. Thomas. Yes. I have no more to say, do what you please with me.

Arnold. My lord, there is one Cornelius in Court, I see him, who was clerk.

Judge. Crier, call him, swear him. Well, Cornelius, did you ever see the prisoner at Mass?

Cornelius. I am an ignorant fellow, I know not what Mass is.

Wm. James. My lord, he was his clerk.

Cornelius. No, I was his servant.

Judge. Well, sit down. Mr. Lewis, now what have you to say to all these witnesses, for yourself?

Prisoner. My lord, my Indictment was, That

being a natural subject of the king of England, I was ordained beyond the seas, by a jurisdiction derived from the See of Rome, and returned back again into England, &c. contrary to the statute in that case made and provided, 27 Eliz. Under your lordship's favour, I conceive that there has not been here any one witness, who hath proved the Indictment, or any part thereof.

Judge. What then? Do you expect we shall search the Records at Rome, or should bring persons to prove, that they saw you ordained there? No, Sir; it is enough that you have exercised the function of a priest, in copes and vestments used in your church, and that you have read Mass, taken confessions, given absolutions, married, and christened; if all this will not make you a priest, what will? I have tried several Popish priests, but never met with so full a proof as this now.

Prisoner. All these things supposed proved, will not make me a priest, unless proved to be performed by me, as one ordained beyond the seas, by the jurisdiction derived from the See of Rome; for the very ministry of the Church of England take special confessions, and give formal absolutions; many, in case of necessity, christen, though no priests; and lately, the country knows it, one, no Popish priest, solemnly married a couple; neither can one prove to have seen me read Mass, unless it be proved first, that I was ordained beyond the seas, by a jurisdiction derived from the See of Rome; for, no such ordination, no priest; and, no priest, no Mass.

Judge. To disprove all these witnesses, by saying, it cannot be proved you were ordained beyond the seas, by a jurisdiction derived from the See of Rome, is as much as that saying, Bellarmine, thou liest.

Prisoner. My lord, were it proved that I read Mass, that were not treason in me, for I am informed, that it were but the forfeiture of 200 marks, by a statute of 23 Eliz.

Judge. It is true, who hears Mass, forfeits 100 marks. But he that uses to read it, commits treason: but these are the tricks of you all, yet all will not do: have you any thing else to say?

Prisoner. With your lordship's leave, now I desire to speak something to the evidence of every particular witness.

Judge. Speak then.

Prisoner. My lord, as to the first witness, Price; as I hope to be saved, to the best of my memory, I never saw him, till this very day, before. I never knew or heard before now of that Mrs. Bartlet, or of that place Castle Morton; I never was in that place all my life-time; nay, I never was in Worcestershire, or in any house in Worcestershire, but twice, the last time whereof was about five years ago; and that was but at my inn in Worcester town, where, with a servant, I alighted, bespoke my supper, went to the coffee-house, drank two dishes of coffee, read the Gazette, returned to my inn again, supped, went to bed, next morn-

ing bought some few books at the stationers, dined, took horse, returned home again: This is all the being I ever was in Worcestershire.

Judge. Look upon him, do you know him?

Price. Yes, my lord, he is the man.

Judge. Have you any more to say?

Prisoner. Yes, my lord. Mr. Trot was married to a kinswoman of mine, and she was a considerable fortune to him, which he having spent very idly, and she dying, he went to London, where finding an employment at Court, and there having done some unhandsome things, he was banished the court, and now lives upon the charity of gentlemen and friends for his bread; so that with good reason it may be believed, it is rather poverty and hope of gain, than any thing else, that brings him here to accuse me.

Judge. 'Paupertas ad turpia cogit.' Little gentleman, [he was a dwarf,] what can you say to this?

Trot. My lord, I was over with the king, and he commanded me to attend him at Whitehall on his Restoration, where I came when I returned, and I was received into his service, but was never banished the court, only I came away upon discontent, and still I may go there when I please: My lord, I am desirous to do my king and country good service, but I am in danger of my life amongst them, and must look to myself.

Judge. Ay, Mr. Trot, have a care of yourself, you do well. Mr. Lewis, have you any more to say for yourself?

Prisoner. My lord, Dorothy James and William James her husband, their evidence is grounded upon plain malice, and that malice thus grounded: They pretending I owed them money, they sued me in Chancery; but after a considerable charge at law, finding themselves not like so to prevail, then they fell to threatening me, that they would have me in hand, that they would make me repent; that she would never give over to prosecute against me, till she had washed her hands in my heart's blood, and made pottage of my head.

Judge. Can you prove that?

Prisoner. Yes, my lord, that I can.

Judge. Call your witnesses then.

Prisoner. Crier, call Richard Jones, Anne Williams, Anne James, and Cath. Cornelius.

Judge. What can you say, Richard Jones?

Richard Jones. I heard William James say, he would make Mr. Lewis repent.

Judge. Anne Williams, what can you say?

Anne Williams. I heard from several persons, that Dorothy James said to several persons, in and about Carlion, that she would wash her hands in Mr. Lewis's blood, and that she would have his head to make pottage of, as of a sheep's head.

Catharine Cornelius. My lord, and I heard the same.

Judge. Anne James, what can you say?

Anne James. I heard Dorothy James swear, that she would wash her hands in Mr. Lewis's heart's blood.

Judge. Where did you hear her say so?

Anne James. I heard her say so in her own house, at the fire-side, when I lived with her.

Judge. Well, Mr. Lewis, all this will not do, all will not excuse you from being a priest; or were you a hypocrite?

Prisoner. My lord, I am a native of this country.

Judge. What, of this country?

Prisoner. Yes, my lord, of this country; and those years I lived in this country, I lived with the reputation of an honest man, amongst all honest gentlemen and neighbours.

Judge. Well, Mr. Lewis, have you any more to say?

Prisoner. My lord, Mr. Sayes was sworn witness against me, I desire to ask him one question.

Judge. Do so.

Prisoner. Mr. Sayes, when you took me, was there a justice of peace with you, at taking of me?

Sayes. No.

Prisoner. My lord, with this opportunity I humbly beg leave to clear myself from a foul aspersion, wherewith I am calumniated over the whole nation, in a printed pamphlet, which pamphlet I can here produce; and wherein there is not one line of truth. For it says at the end of it, that I was taken by a justice of peace and others, in a place cunningly contrived under a clay-floor, which Mr. Sayes knows to be untrue; and whereas it alledges, That I cheated a poor woman of 30*l.* to redeem her father's soul out of purgatory, the pamphlet names neither the woman, nor her husband, nor her father, nor the place nor time, when nor where.

Judge. Does it not?

Prisoner. No, my lord; so that the whole pamphlet is one entire lie, devised by some foolish malice.

Judge. Mr. Lewis, I, for my part, do not believe it to be true. Have you any more to say?

Prisoner. No more, my lord.

Judge. Then withdraw and repose. Gentlemen of the Jury, here he stands indicted, &c. [And summed up the whole evidence.] If you believe what the witnesses swore, you must find the prisoner Guilty of High Treason; you have heard what was proved against him, therefore go together.

Prisoner. My lord, before the Jury go, I desire to speak something, which now occurs unto me, and is material against the evidence of Price.

Judge. Jury, stay.

Prisoner. This very morning that Price came to my chamber, with the gaoler (it seems it was to view me), he took a turn about the room, all the time eyeing me; at his going out, he was asked by the gaoler, whether I was the man he meant? and he answered, If I was he, I was much changed, and if I was he, I had black short curled hair.

Judge. Can you prove that?

Prisoner. Yes, my lord.

Judge. Where are your witnesses?

Prisoner. Crier, call Elizabeth Jones and Charles Edwards.

Judge. Woman, what can you say to this?

Eliz. Jones. My lord, Price this morning, after he had viewed the gentleman in his chamber, as he was going out he said, If he be the man, he is much changed, and hath black curled short hair; which is not so.

Judge. Charles Edwards, what can you say?

Edwards. I heard Price say the same words she relates.

Judge. Where is Price? Crier, call him. But he was not to be found, being gone out of the hall. (This was the trick of Coleman, to asperse the witnesses.)

[Here the Jury went out, and immediately returned again.]

Clerk. Are you agreed of your verdict?

Jury. Yes.

Clerk. Who shall speak for you?

Jury. Foreman.

Clerk. David Lewis, hold up thy hand. Do you find the prisoner Guilty, or Not Guilty?

Jury. Guilty.

Judge. Have you any more to say?

Prisoner. No more, my lord.

Clerk. David Lewis, hold up thy hand.

Judge. Give me my cap. David Lewis, thou shalt be led from this place, to the place from whence thou camest, &c. [As usual in Cases of High Treason.] So the Lord have mercy on thy soul.

Then I made a bow to the Judge, and the Court arose.

Afterwards, August 27, 1679, he was executed according to the Sentence, at Uske in Monmouthshire, where he spake as follows:

"Here is a numerous assembly, I see; the great Saviour of the world save every soul of you all; I believe you are here met not only to see a fellow-native die, but also with expectation to hear a dying fellow-native speak. If you expected it not, at least I intended it, I hope the favour will not be denied me, it being a favour so freely granted to several late dying persons in London itself. I shall endeavour to speak inoffensively; I hope the same favour will not be denied me.

"Let none of you suffer as a murderer or a thief, but if as a Christian, let him not be ashamed; Saint Peter's words, 1 Peter iv. 15, 16. I hope by God's holy spirit now whispered to my memory, and that to my abundant consolation; for I suffer not as a murderer, thief, or such-like malefactor, but as a Christian, and therefore am not ashamed.

"I distinguish two sorts of life on earth, life-moral and life-natural; life-moral is that by which we live with good repute in the esteem of other men of integrity; life-natural is that by

which we breathe; in the first sort or kind, I thank God I have suffered lately, and exceedingly, when maliciously, falsely, and most injuriously, I was branded for a public cheat, in pamphlet, in ballad, on stage, and that in the head city of the kingdom, yea, and over the whole nation, to the huge and great detriment of my good name, which I always was as tender of, as the other I am now quitting.

The pamphletical story, believe my dying words, had no truth in it, neither to substance, nor circumstance of the thing; a story so false, that I could have easily defied the face that had attempted to justify it to my face; so sordid a business, a story so ridiculous, that I wonder how any sober Christian, at least who knew me, could as much as incline to believe so open an improbability; who that Protestant young man there mentioned was, I know not; who that Popish young woman; who the father dead a year and a half before; in what county, what parish, were all transacted, I know not, none of all these there particularized; and when in the face of the country at last Lent-assizes, I vindicated my innocency herein, to the satisfaction of the then Judge himself, why appeared not there then some one to make good the charge, and disable my defence? But none of this offered; a plain demonstration to all candid minds, the whole was a mere fiction of some malicious person against me: God forgive them or him, I heartily do. How forward my endeavours always have been to my power to relieve the poor, and not directly to defraud them, impartial neighbours that know me can tell you; besides this, during my nine months imprisonment, several foul and false aspersions were cast out against me, and that by those unto whom, for full thirty years, I had been charitably serviceable: God forgive them, I heartily do. Yet notwithstanding all these calumniation, I hope I still retain the character of an honest man amongst gentlemen of worth, with whom I conversed, and with all neighbours of honesty, with and amongst whom I lived.

And now I am parting with the other life by which I breathe, behold that within these few moments of time is to unbreath me; but why thus sledged to this country Tyburn? Why this so untimely death of mine? Have patience, and I'll tell you; not for any plotting, I assure you; and what I shall now say, as to that, God is my witness, I shall speak without any equivocation, mental reservation, or palliation of truth whatsoever.

By all that is sacred in heaven and earth, I here solemnly protest, that I am as innocent from any plot whatever against his majesty's person or government, as the infant that left the mother's womb but yesterday; neither did I ever hear or know any thing directly or indirectly of any such plot, till public fame had spread it over the country between Michaelmas and All-Saints day last: This is true, as God shall judge and save my soul; neither was there any guilt of any such black crime found

in me by Mr. Oates, Mr. Bedlow, Mr. Dugdale and Mr. Praunce, when by them I was strictly examined on that point, last May, in Newgate, London; nay, had I had the least knowledge or hint of such plot, I had been as zealously nimble in the discovery of it, as any the most loyal subject his majesty hath in his three kingdoms; wherefore, when I am dead and gone, if some malevolent give out, I lose my life for plotting, by charity strive to disengage him of his mistake; do that right to my dead ashes.

I was never taught that doctrine of king-killing; from my soul I detest and abhor it as execrable and directly opposite to the principles of the religion I profess; what that is, you shall know by and by; it being the positive definition of the council of Constance, That it is damnable for any subject, or private person, or any subjects in council joined, to murder his or their lawful king or prince, or use any public or clandestine conspiracy against him, though the said king or prince were a Turk, apostate, persecutor, yea or a tyrant in government; Never tell me of Clement the murderer of Henry the 3d of France; never tell me of Ravilliac, murderer of Henry the 4th of France, they did so, but wickedly they did so, and for it they were punished to severity, as malefactors; and for it, to this very day, are stigmatized by all Roman catholics, for very miscreants, and villains. I hope you will not charge the whole Roman catholic body with the villainies of some few desperadoes: By that rule, all christianity must be answerable for the treason of Judas; for my part, I always loved my king, I always honoured his person, and I daily prayed for his prosperity; and now, with all unfeigned cordiality, I say it, God bless my gracious king and lawful prince, Charles 2, King of England, and Prince of Wales, God bless him temporally and eternally, God preserve him from all his real enemies, God direct him in all his councils, that may tend to the greater glory of the same great God; and whatever late plot hath been, or is, the Father of lights bring it to light, the contrivers of it, and the actors in it, that such may be brought to their condign punishment, and innocence preserved.

But why again this untimely death? My religion is the Roman catholic religion, in it I have lived above this forty years, in it I now die; and so fixedly die, that if all the good things in this world were offered me to renounce it, all should not move me one hair's breadth from my Roman catholic faith; a Roman catholic I am, a Roman catholic priest I am, a Roman catholic priest of that religious order called the Society of Jesus I am; and I bless God who first called me; and I bless the hour in which I was first called both unto faith and function.

Please now to observe, I was condemned for reading mass, hearing confessions, administering the sacraments, anointing the sick, christening, marrying, preaching: As for reading the mass, it was the old, and still is, the accustomed and

laudable liturgy of the holy church; and all the other acts, which are acts of religion, tending to the worship of God; and for this dying, I die for religion. Moreover know, that when last May I was in London under examination concerning the plot, a prime examinant told me, that to save my life and increase my fortunes, I must make some discovery of the plot, or conform; discover plot I could not, for I knew of none; conform I would not, because it was against my conscience; then by consequence I must die, and so now dying, I die for conscience and religion; and dying upon such good scores, as far as human frailty permits, I die with alacrity interior and exterior; from the abundance of the heart, let not only mouths, but faces also speak.

Here, methinks, I feel flesh and blood ready to burst into loud cries, tooth for tooth, eye for eye, blood for blood, life for life; No, crieth holy gospel, Forgive and you shall be forgiven; pray for those that persecute you; love your enemies; and I profess myself a child of the gospel, and the gospel I obey.

Whomever, present or absent, I have ever offended, I humbly desire them to forgive me; as for my enemies, had I as many hearts as I have fingers, with all those hearts would I forgive my enemies, at leastwise, with all that single heart I have, I freely forgive them all, my neighbours that betrayed me, the persons that took me, the justices that committed me, the witnesses that proved against me, the jury that found me, the judge that condemned me, and others whoever, that out of malice or zeal, covertly or openly, have been contributive to my condemnation; but singularly and especially, I forgive my capital persecutor, who hath been so long thirsting after my blood; from my soul I forgive him, and wish his soul so well, that were it in my power, I would seat him a seraphim in heaven, and I pray for them in the language of glorious St. Stephen the protomartyr; Lord, lay not this sin unto them; or bet-

ter ye, in the style of our great master, Christ himself, Father forgive them, they know not what they do.

And with reason I love them also; for though they have done themselves a vast soul-prejudice, yet they have done me an incomparable favour, which I shall eternally acknowledge; but chiefly I love them for his sake, who said, Love your enemies; and in testimony of my love I wish them, and it is the best of wishes, from the center of my soul, I wish them a good eternity. O eternity, eternity! How momentaneous are the glorious riches, and pleasures of this world! and how desirable art thou, endless eternity!

And for my said enemies attaining thereunto I humbly beseech God to give them the grace of true repentance, before they and this world part.

Next to my enemies, give me leave to lift up my eyes, hands, and heart to heaven, and drop some few words of advice unto, and for my friends, as well those present as absent. Friends, fear God, honour your king, be firm in your faith, avoid mortal sin, by frequenting the sacraments of holy church, patiently bear your persecutions and afflictions, forgive your enemies, your sufferings are great; I say be firm in your faith to the end, yea, even to death, then shall ye heap unto yourselves celestial treasures in the heavenly Jerusalem, where no thief robbeth, no moth eateth, and no rust consumeth; and have that blessed saying of the blessed St. Peter, prince of the apostles, always in your memory, which I heartily recommend unto you, viz. Let none of you suffer as a murderer or a thief, but if as a christian let him not be ashamed, but glorify God in his name.

Now it is high time I make my addresses to heaven, and supplicate the divine goodness in my own behalf, by some few short and cordial ejaculations of prayer.

His prayers being ended, he was turned off.

250. The Trial of NATHANAEL READING,* esq. for a Trespass and Misdemeanor: 31 CHARLES II. A. D. 1679.

ON Wednesday the 16th of April, 1679, his majesty's Commissioners of Oyer and Terminer did meet at Westminster-hall, in the court of King's-bench, when and where the commission was read and proclamation for attendance being made, and the grand jury sworn, sir James Butler, her majesty's Attorney General, and chief commissioner that then appeared, gave them their Charge thus:

Gentlemen,

His majesty, upon the Address of the honourable House of Commons, hath been pleased to give order for this commission of Oyer and Ter-

* He had been secretary to Massianello, at the insurrection at Naples, about thirty years before. His name occurs at p. 1155, of vol. 5.

miner that hath been read, to issue out; and the court thereby hath authority to inquire of, hear and determine several other offences: yet, at this present, you shall have no other in charge than the particular offence recited in the Indictment in my hand. It is a crime of an unusual and rare nature: the indictment is against Nathanael Reading; it sets forth the plot against the king, the government and the religion established here by law, the horrid and pernicious mischiefs and consequences of it: it sets forth likewise, that several persons, (and names them) as Coleman, Ireland and Grove, were tried, condemned, and executed for the same: that several lords in the Tower do stand impeached in parliament of the said high-treason, and other high-crimes and misde-

meanors; and this was well known to Mr. Reading, and that notwithstanding he hath so misbehaved himself, in endeavouring to lessen and stifle (as much as in him lay) the king's evidence, that if it had not been happily prevented might have been of most mischievous consequence. I shall not take upon me to recite the whole indictment to you, being very long, and not seen or perused by me till now; but you shall have the same along with you, it shall be read to you. Your duty is, to examine and consider of the evidence to be offered you, on the behalf of the king, for the proof of the charge against the offender: if you find it amount to a proof of what is laid therein, nay, I must tell you, if you have but probable evidence, you ought to find the bill, because your presentment and verdict is not a conviction, but in the nature of an accusation, in order to bring the prisoner to a fair trial: and if you do not find the bill, he shall never be brought to his trial; but if you (having probable evidence) find it, he shall receive his trial by the petty jury; and upon the merits, be either acquitted or convicted. This is as much as I think is fit for me to say to you at this time, upon this occasion. You may please to go together, and take the witnesses along with you.

[Then the Witnesses were sworn, and the Grand-Jury withdrew, and after the space of about half an hour, returned, finding it *Billa-Vera*. After which the court adjourned to Thursday, the 24th day of April, at eight o'clock in the morning, in the same place.]

On which day the Commissioners here-under-named being met, viz. sir Francis North, kt. L. C. Justice of his majesty's court of common-pleas, William Mountague, esq. L. C. Baron of his majesty's court of exchequer, sir William Wylde, kt. and bart, one of his majesty's justices of the king's-bench, sir Hugh Wyndham, kt. one of his majesty's justices of the common-pleas, sir Robert Atkins, kt. of the Bath, another of the justices of the common pleas, sir Edward Thurland, kt. one of the barons of the Exchequer, Vere Bertie, esq. another of the justices of the common-pleas, sir Thomas Jones kt. another of the justices of the king's-bench, sir Francis Brampton, kt. another of the barons of the exchequer, sir William Dolben kt. another of the justices of the king's-bench, sir William Jones, kt. his majesty's Attorney General, sir James Butler, kt. one of the King's Council, and the queen's Attorney, sir Philip Mathews, bart, sir Thomas Orby, kt. and bart, sir Thomas Byde, kt. sir William Bowles, kt. sir Thomas Stringer, serjeant at law, sir Charles Pitfield, kt. Thomas Robinson, Humphrey Wyrley, Thomas Haryot, and Richard Gower, esquires.

Proclamation was made for attendance, and the Grand Inquest being called, Sir Francis North, Lord Chief Justice of the Common Pleas, (the Lord Chief Justice being out of town) spoke to them thus:

Lord Chief Justice. You of the Grand Jury, This session is upon a particular occasion, and that which lay upon you was to find the bill; and that you have done, and we do not see any thing further for you to do, and therefore the court discharges you from any further attendance this session.

[Then Mr. Reading was sent for, and brought to the bar by captain Richardson, keeper of Newgate; and silence being proclaimed, the Clerk of the Crown read the Indictment to him.]

Cl. of the Cr. Mr. Reading, hearken to your Indictment.

"You stand indicted by the name of Nathanael Reading, late of the parish of St. Margaret, Westminster, in the county of Middlesex, esq. That whereas Edward Coleman, William Ireland, and John Grove, and other (unknown) false traitors against our most serene lord king Charles 2, the 24th day of April, in the 30th year of his reign, at the parish of St. Margaret's Westminster, in the county of Middlesex, had traitorously, among themselves, conspired, consulted, and agreed, our said most serene lord the king to bring and put to death and final destruction; and to move war against him our lord the king, within this realm of England, and the religion in the same kingdom rightly and by the laws of the same realm established to change and alter to the superstition of the Romish church, and the government of the same kingdom to subvert; for which certain most wicked treasons, and traitorous conspiracies, consultations, and agreements aforesaid, they, the said Coleman, Ireland, and Grove, in due manner, and according to the laws of this kingdom of England afterwards were attainted, and had therefore undergone the pains of death: and whereas William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel of Warder, William lord Petre, and sir Henry Tichburn, bart. the 30th day of November in the above said 30th year of the reign of our said lord the king, at the said parish of St. Margaret's Westminster, in the county aforesaid, were of the aforesaid treasons in a lawful manner accused, and thereupon, according to the due form of law, to the Tower of London (being the prison of our said lord the king) were committed, there safely to be kept, to answer the aforesaid treasons, whereof the same William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel, and William lord Petre in parliament, by the Commons in the same parliament assembled, are impeached: But you the said Nathanael Reading, the aforesaid premises sufficiently knowing, and being devilishly affected against our most serene lord the king, your supreme and natural lord, and devising, and with all your might intending, to disturb the peace and common tranquillity of this realm, and the government of the same kingdom, and the sincere religion of God in the same, rightly and by the laws of the said realm established, at your will and pleasure to change and alter; and the state of this king-

dom, through all its parts well instituted and ordained, wholly to subvert; and to obstruct, hinder and stifle the discovery of the said treason, and as much as in you lay, the due course of law in that part to shift off, and retard in the prosecution of justice against the said William earl of Powis, William viscount Stafford, William lord Petre, and sir Henry Tichburn: You, the said Nathanael Reading, the 29th day of March, in the 31st year of our said lord the king, at the said parish of St. Margaret's Westminster, in the county aforesaid, on the part of the aforesaid William earl of Powis, William viscount Stafford, William lord Petre, and sir Henry Tichburn, falsely, advisedly, corruptly, and against the duty of your allegiance, did unlawfully solicit, suborn, and endeavour to persuade, one William Bedlow, (who, on the 29th day of March, in the said 31st year, in due manner did give information of the said treasons; and whom you, the said Reading, the day and year last above said, did well know the information of the said treasons as aforesaid to have given, on the part of our lord the king) upon the trial of the aforesaid William earl of Powis, William viscount Stafford, William lord Petre, and sir Henry Tichburn, for the treasons aforesaid, to be had, to lessen and stifle, and to omit to give in evidence the full truth, according to his knowledge, of the aforesaid treasons, against them, the said William earl of Powis, William viscount Stafford, William lord Petre, and sir Henry Tichburn, and to give such evidence, as you, the said Nathanael Reading, should direct; And you, the said Nathanael Reading, sooner and more effectually to persuade the aforesaid William Bedlow to lessen and stifle, and to omit to give in evidence the full truth, according to his knowledge, against the said William earl of Powis, William viscount Stafford, William lord Petre, and sir Henry Tichburn, upon their trials, and to give such evidence as you, the aforesaid Nathanael Reading, would direct: You, the said Nathanael Reading, afterwards, on the said 29th day of March, in the 31st year abovesaid, at the aforesaid parish of St. Margaret's Westminster, in the said county, falsely, advisedly, corruptly, and against the duty of your allegiance, unlawfully did give to the same William Bedlow, fifty-six pieces of coined gold of this kingdom, called guineas: and also falsely, advisedly, corruptly, unlawfully, and against the duty of your allegiance, the day and year abovesaid, at the aforesaid parish of St. Margaret's Westminster, in the said county of Middlesex, did promise to the said Bedlow, that he, the said Bedlow, within a certain time, by you, the aforesaid Nathanael Reading, to the said Bedlow proposed, should have and receive divers other great sums of money, and other great rewards, for lessening and stifling, and omitting to give in evidence the full truth, according to his knowledge, of the aforesaid treasons against the said William earl of Powis, William viscount Stafford, William lord Petre, and sir Henry Tichburn, and for giving such evidence, as you, the said Na-

thanael Reading, to the said William Bedlow should direct, to the great hindrance, obstruction, and suppression of justice, in manifest contempt of the laws of this realm, to the evil and pernicious example of all others in the like case offending; and against the peace of our lord the king, his crown and dignity, &c."

How say you, Mr. Reading, art thou Guilty of this trespass and misdemeanor, or Not Guilty?

Reading. Not Guilty, in thought, word, or deed.

L. C. J. Not Guilty, is your plea?

Reading. Yes, my lord.

Cl. of the Cr. Crier, make proclamation. You good men of this county of Middlesex, summoned to appear here this day, to try the issue joined between our sovereign lord the king, and Nathanael Reading, answer to your names, and save your issues.

[Then the pannel was called over, and Proclamation for information in usual form was made.]

Cl. of the Cr. Mr. Reading, look to your challenges. Will your lordship please to have Sir John Cutler to be foreman?

L. C. J. Yes.

Reading. My Lord, I have a very great honour for this worthy person, Sir John Cutler; he is in commission of the peace, I do therefore humbly desire he may be excused at this time.

L. C. J. Mr. Reading, you cannot challenge him peremptorily in this case, it not being for your life; and therefore you must shew cause if you have any. He is not in this Commission at all; and for his being in the Commission of the Peace, that signifies nothing, for we oftentimes in the circuits take them off the Bench to be Jurymen; but if you can shew any cause of challenge, it must be allowed you.

Reading. My Lord, I look upon myself indicted for Treason; (I desire God to give me strength, and I am sure of your lordship's patience) and I look upon the Indictment which hath been read to me, and upon which I have been arraigned, to be expressly treason: and I do humbly pray your lordship's judgment in it, whether it be so or not: For, my Lord, (if your lordship please) if it be so, as I understand my own innocency, so your lordship understands my charge better than I do. And God knows I have neither strength of body, nor presence of mind to manage my own defence; but my happiness is, that I am alive at this day, and am to be tried here before so honourable a bench. My lord, I have not had the advantage of any council to assist me, nor the benefit of any common friend, no, not my wife to come to me. I have not been able to help myself through the great indisposition which I have been under, reduced to it by that barbarous and illegal usage which I have had: For (my lord) I hope I may say I am the first Englishman that in my circumstances hath ever been used as I have been;

and my hopes are, whatsoever becomes of me (the Lord's will be done,) I shall be the last that ever shall be so used. My Lord, upon the weakness of my own apprehension, I do take it, that it is as high treason, nay a greater treason, and that in the words of the indictment, than ever Mr. Coleman, or any of the others that have been executed, died for; or the Lords now in the Tower stand charged with; and therefore, my lord, I pray your direction in it, if it is but a misdemeanor (for truly what the crime is I know not;) but in construction of law, admitting the indictment true, the whole does contain in it the blackest treason that ever villain was guilty of. If it is so in your lordship's judgment, whatever should become of it now, I may be indicted for it again; and should this indictment be found upon me, I am as certainly in the eye of the law a dead man, as through the mercy of God I am now alive: and (my lord) if it be so, I desire your lordship's judgment whether I may not be allowed a peremptory challenge.

L. C. J. Mr. Reading, you speak in due time, for its pertinent to the matter of peremptory challenge, to consider whether this be an indictment of treason? for if it be, the law does allow in favour of your life a peremptory challenge to such a number; and I will tell you, your apprehensions have something in them: That the fact as it is laid in the indictment, might have been laid so as to have made an indictment of treason; and if you are guilty of this fact, and not indicted for treason, but only for a misdemeanor, it is favour to you, and that of which you cannot take advantage or complain of. I'll now shew you that this indictment is not an indictment of treason, nor can the judgment of treason be given upon you for it; and so thereby your life is not in danger. First, here is not the word *proditorie*, which is necessarily in all indictments of treason: next you must observe that all treasons are expressly particularized in the statute of 25 Ed. 3. And nothing is treason but what is contained in that act, as compassing the death of the king, levying war against the king, and other facts mentioned in that statute. Now if this fact had been here laid as an overt-act for the evidencing of the imagination of your heart in compassing the death of the king, and the destruction of the realm, there it had been an indictment of treason: but being there is no treason formally laid, nor the word (*Proditorie*) which is necessary in all indictments of treason, 'tis only a misdemeanor you stand charged with; which I must tell you is great ease and favour to you in such circumstances as we are now; and if it be so, you must shew cause if you challenge any juror.

Reading. If I may (with your lordship's favour) I am very highly disposed for the taking of the least favours that can be shewed me, with the deepest acknowledgment that an innocent man and one in distress can make: but (my lord) among the greatest of misfortunes, this I own as my happiness, that I am now on

my trial before your lordship. But pray (my lord) may not I (having this favour shewed to me, and should it be only found a misdemeanor) afterwards be indicted for treason? And pray (my lord) does there want any one circumstance of the formality of an indictment for treason in this against me, but that one of *Proditorie*?

L. C. J. No, it is not laid that you did compass the death of the king.

Reading. Then (with your lordship's pardon) I do not understand it: for the indictment does set forth, 'That Coleman and others did conspire the death of the king, levying war, the altering of religion and subversion of the government; for which they justly suffered death.' And further, as to the several lords in the indictment mentioned, they are accused for the same treason; 'And justly, and according to law sent to the Tower, to answer what they stand justly impeached of by the Commons.' And it sets forth further; that I *premissa predicta satis sciens*, did so and so: were there no other expression, that my lord, is expressly treason, or no doubt misprision of treason; for, my lord, it does charge me that I am *satis sciens* particularly, sufficiently well apprized of those treasons they were executed for, these accused. And that I did not this out of the weakness of my own apprehension, but falsely, advisedly and maliciously. My happiness is, I shall have your great judgments to determine this matter for me.

L. C. J. Mr. Reading, you exercise great elocution and eloquence; but if I do apprehend you aright, what you say is this: That the Indictment sets forth, that you *satis sciens* of those treasons did so and so, which will amount to a misprision of Treason. I must tell you, there is a difference between the knowledge of a treason that is secret, for the concealing of that, and endeavouring to stifle the evidence, is misprision of treason; but the knowing of a treason that is revealed and discovered is knowing no more than all the world knows; and not laid as a fault, but to aggravate the fault afterwards charged. This discourse is nothing to the matter; if you would have our opinion, whether you may afterwards be questioned for Treason, it is that we are not to give you; answer the Indictment as now it is: You have favour enough that it is laid this way, and not the other. An Indictment of Treason or Misprision must not be laid so as that the crime must be collected out of the Matter of Fact only, but it must be formally laid. How you shall be prosecuted hereafter, must depend upon the justice of the kingdom. We sit here now to determine upon what matter lies before us, and so we cannot grant you a peremptory challenge in this case, which is only allowed in matters capital in favour of life.

Reading. My lord, I do desire to know whether this be treason or no, 'That being devilishly affected to the king my supreme and natural lord, and intending to levy war in the kingdom, and to change the government, and

to alter the religion, and subvert the peace of England; whether that be not treason?

L. C. J. Mr. Reading, We will answer none of those questions: But this I will say to you, no judgment of treason can be given upon you upon this indictment; and though these acts (if formally laid) might have been treason, yet it not being so, we must proceed as it lies before us: And therefore if you have any particular cause to challenge sir John Cutler, shew it, and we will hear you.

Reading. My lord, I have this cause, I have been but a little time acquainted with this worthy gentleman; but, my lord, I have seen him in company with Mr. Bedlow, mine accuser, I know there is not a common intimacy and friendship between them: I am very certain, my lord, that sir John hath too much honour to do me wrong; but I do humbly desire that he may have his ease, and be excused at this time: not that I do distrust his justice, but for the reasons I have humbly offered.

L. C. J. Look you, Mr. Reading, your accusers are witnesses for the king, and are neither to gain nor lose by your trial; and therefore cannot be presumed to make any party for your conviction. And do you challenge a jurymen because he is supposed to know something of the matter? For that reason the juries are called from the neighbourhood, because they should not be wholly strangers to the fact. If you can shew that he hath already given his verdict by his discourse, and that you are already condemned in his opinion, that may be some cause of challenge; but that he hath discoursed with neighbours as others do, it may be he believes it, and may be he does not believe it, he is now to give his verdict upon what he hears upon oath.

Reading. My lord, I am very glad to see sir John Cutler here, for I did intend to have his evidence for me.

L. C. J. That you may have, though he be sworn.

Then the Jury were sworn, and their names were as followeth, viz. Sir John Cutler, Joshua Galliard, Edward Wilford, Thomas Henslow, Thomas Earsby, John Erle, Thomas Casse, Rainsford Waterhouse, Matthew Bateman, Walter Moyle, Richard Paget, and John Haynes, Esquires.

L. C. J. If sir John Cutler desires pen, ink and paper, or any other convenience, let him have it.

Cl. of the Cr. Gentlemen of the jury, hearken to the indictment. He stands indicted by the name of Nathanael Reading——

L. C. J. You need not open the Indictment, let the counsel do that.

Then *Edward Ward, Esq.* being of Counsel for the King in this Cause, opened the Indictment.

May it please your lordship, and you gentlemen of this jury, Nathaniel Reading, esq. stands indicted for this offence: That whereas Edward

Coleman, William Ireland, and John Grove, and other unknown persons, (traitors against our sovereign lord the king) the 24th day of April, in the 30th year of the king, did traitorously contrive the king's death, the subversion of the government of the kingdom, and the religion in the same kingdom by law established, to alter and change to the superstition of the Romish Church; for which treasons they have been in due manner attainted and executed: And it farther lays, That whereas William earl of Powis, William lord viscount Stafford, John lord Bellasis, Henry lord Arundel of Wardour, William lord Petre, and sir Henry Titchburn, baronet, were the 30th of November last, in a lawful manner, accused of those Treasons, and for them committed to the Tower; and thereof the said Lords were and stand impeached by the Commons in parliament: The said Mr. Reading well knowing of these things, and being devilishly affected to the king, his supreme and natural lord, and devising to disturb the peace of the kingdom, and the government and religion thereof rightly established, to change and alter; the state of the kingdom well instituted, to subvert; and to obstruct and stifle the discovery of these treasons, and as much as in him lay to shift off and retard the course of law and prosecution of justice against the said lord Powis, lord Stafford, lord Petre, and sir Henry Titchburn; the said Mr. Reading, the 29th of March last past, at St. Margaret's Westminster, on the part of these three last mentioned lords, and sir Henry Titchburn, did falsely, corruptly, advisedly, and against his allegiance, unlawfully solicit, suborn, and endeavour to persuade one Mr. William Bedlow (who before had given information of these Treasons against the said persons, and whom Mr. Reading knew so to have done) to lessen, stifle, and omit to give in evidence the full truth according to his knowledge of the said Treasons against the said three lords, and sir Henry Titchburn, upon their trial to be had, and to give such evidence as he the said Mr. Reading should direct; and to that purpose, falsely, corruptly, advisedly, and against the duty of his allegiance, unlawfully did give to Mr. Bedlow 50 guineas, and promised him, that within a certain time (by the said Reading proposed) he should have and receive divers other great sums of money and rewards, for lessening, stifling, and omitting to give in evidence the full truth, according to his knowledge of those treasons, against the said three Lords and sir Henry Titchburn; and for giving such evidence as he should direct: And this is laid to be to the hinderance and suppression of justice, in manifest contempt of the laws of this realm, to the evil example of others in the like case offending, and against the peace of our lord the king, his crown and dignity. To this Indictment Mr. Reading hath pleaded Not Guilty. If we prove the offences aforesaid against him, we doubt not but you will find him Guilty.

Sir Creswel Levinz one of the King's Learned Counsel in the Law, thus opened the charge.

May it please your lordships, and you gentlemen of the jury, I am of counsel for the king in this case: gentlemen, this indictment is not an indictment of high-treason, nor of misprision of treason; and truly the gentleman at the bar hath something wondrous at the king's lenity to him; the fact in the indictment does indeed sound of another nature, than what it bears the name of; it does in this indictment carry the most moderate character that the fact will bear: it is only an indictment of trespass and misdemeanor, but it is a very high misdemeanor; it is to stifle the king's evidence, and that not in an ordinary case, but where it is attended with the greatest aggravations that can be in any case whatsoever. If a man should endeavour to stifle the evidence in an action betwixt party and party, in the courts of Westminster-hall, for a business of about 40s. those courts of justice would find a ready way to punish him. This is a crime of another nature, for it is set forth in the indictment, that Coleman, Ireland, and Grove had a traitorous design in hand, for the which they were executed, that is, the Plot; and when I have said that, I have said all, that implies all; you all know what was thereby designed. It is set forth in the indictment, that such lords, and sir Henry Titchburn, were privy to the Plot, and accused for it, and to prevent the evidence to be given against these lords, three of them, (for the bargain was only made for three, viz. my lord Stafford, my lord Powis, and my lord Petre; the rest were out of the bargain, and had not, it seems, found out the way of commerce now used by these persons) was this gentleman, Mr. Reading's business. It was to diminish and lessen the evidence that was to be given against them, who were charged and accused to be as highly guilty of the Plot as any that were executed for it. And when I have told you this, you will surely conclude it is an high offence, and an high misdemeanor: for if the life of the king, if the law of the land, if the religion established, if the settled government be valuable; if your own lives, your own liberties, and your own fortunes, have any consideration with you, this is a very high misdemeanor; for you must look upon these as all at stake: this plot, as it was laid, did reach to all: so that an endeavour to conceal the evidence that should discover, and thereby prevent the execution of so horrid a conspiracy, is a very heinous misdemeanor; and you will easily believe, that the gentleman at the bar, the prisoner whom you are to try, had reason to doubt within himself, why it should be called so small an offence as an high misdemeanor: but I will not, I need not aggravate this offence, and the rather because the gentleman that stands accused for it, is of a profession (for which I am sorry) which obliges him to know and understand all the aggravations of his own crime. I will not open the evidence, nor tell you what the witnesses will say, I had rather you should have it from themselves; but if I am rightly in-

formed, you will have the matter fully proved; and therefore we will call the witnesses, and let them tell you what it is they have to say.

Mr. Ward. There are some things laid in this indictment, that are to be previously proved, in order to the charging of the prisoner; as the execution of Coleman, and the rest; and the impeachment of the lords. If Mr. Reading stands upon it, we have those here that will prove it.

L. C. J. Mr. Reading, those public passages that are laid in the preamble of the Indictment, do you insist they should be proved first?

Reading. My lord, I am very willing to save your lordship's time.

L. C. J. Do you admit that Coleman and Ireland, &c. were executed for treason?

Reading. Yes, my lord, and very justly.

L. C. J. Do you admit that the lords in the Tower, are accused and impeached in parliament for this Plot?

Reading. Yes, my lord, I do.

L. C. J. Then you ease them of the reading those records.

Reading. And, my lord, I do further say, I do verily believe there never was a greater plot laid in hell than this. I have abhorred it in my thoughts, and have not only endeavoured to encourage the discovery, but always gave it as my counsel, that nothing that was true should be left out in the evidence. And I do, and will, save your lordship's time as much I can.

Sir Cr. Levinz. Then, if your lordship please, we will call our witnesses, and prove the fact; and if there be any thing that Mr. Reading doubts of, we will prove it afterwards. Swear Mr. Bedlow. Which was done.

Mr. Ward. Mr. Bedlow, I shall only ask you the general question. Will you be pleased to tell my lords and the jury, what you know of this business? tell the whole story, what discourse and bargainings there have been between you and Mr. Reading, for the diminishing and lessening of your evidence.

Bedlow. My lord, Mr. Reading was altogether a stranger to me, till sir Trevor Williams brought me acquainted with him; he was always very just to me in whatsoever he did for me, and wherein he was employed by me. I found him very honest, in reference to my own concerns. And though Mr. Reading will bring a great many people, perhaps, that he hath pressed me to discover the whole of the Plot; I do confess, he did it in a very high measure in all public company, and that I would not be baulked in any point: and for the discovery and convicting, and executing, of those that had died about this Plot, he never denied but they suffered justly and lawfully enough: but in private counsels where we have been together, he hath spoken to me to be cautious. Indeed he hath never endeavoured to have me stifle the whole Plot, but only for some particular people that he solicited for; not but that he believed them guilty, as

well as the rest; but he desired me that I would not be so hot against them. And, after he had made me easy, (that was his word that he himself used) he would have had me made Mr. Dugdale easy too. At several times, when we have been together, his very expressions have been to me, Mr. Bedlow, Though there has been so damned a design on foot, and so terrible a one, yet it is not for your safety nor credit to run at the whole herd of men: For I was this day, or yesterday, he said, with my lord chief justice, and he told me, That at this rate that Mr. Bedlow accuses men, none are safe, for he runs at the whole herd; and seemed to me to intimate, that my lord chief justice was not pleased with my forwardness. And he told me likewise, You gain your point with the parliament, and with the king, and with the kingdom, if some suffer, as I believe you can do it, and not run at the whole herd; and it is an indifferent thing to you, so you make the parliament your friend, by proving there is a Plot, and the king your friend, in not charging all these lords, and you will make all the lords your friends, by your kindness to them. You shall take my instructions, I will never advise you any thing that is ill, but I will tell you how far you shall proceed. If you can fix any thing for them, you shall be sure to be well gratified.

L. C. J. Did he name any lords to you?

Bedlow. This was the beginning of the discourse, my lord; and I answered him, Mr. Reading, This is a very nice point, and I know them to be guilty of all the things I charge them with, and I can prove it. If your advice be so, I will consider of it. I think it was after the prorogation of the last parliament, and then my encouragement for discovery was not so great. But, said I, if any of them deny it to you, that they are guilty, then they must expect no kindness from me at all, for I will swear all that I can against them; but if they acknowledge that I do them a piece of service in not swearing too severely against them, then I will be ready to take your advice and instructions. He told me many times, that sir Henry Titchburn did think he had seen me in Paris, but he did not use this expression to me, That I charged him with bringing commissions over from Rome. I answered again, You may tell sir Henry Titchburn, if he denies any thing of the fact that I have sworn against him, he does me and himself a great injury. And to take him off as an innocent man, I cannot do it, I will never do it. But upon acknowledgment, I may do them some kindness. So likewise my lord Powis and Caryll. The gentlemen that he most solicited for, were, my lord Powis, my lord Petre, my lord Stafford, sir Henry Titchburn, Mr. Roper, Mr. Caryll, and one Mr. Corker a Jesuit. And likewise he made me easy, upon that day that Mr. Whitebread and Mr. Fenwick were upon their trials; for I have enough against them, because I could be no stranger to Whitebread and Fenwick, two such considerable men, being so much concerned as

I was in their affairs. It was impossible I should be so much a stranger to them, as I said I was, but it was because Mr. Reading had then made me easy, and I intended to carry on the intrigue with him, till it could be handsomely discovered. But my lord chief justice asked me whether that was all I could say? And I told him, my lord, I have something more to say, when time and place require it, and when I can be safe in telling it; that is, when I had found out all that Mr. Reading intended to do, how far he would go, and then I thought it would be a proper time, when I could make out some such information as I now do; but I would not stifle that treaty that was between him and me, about the lords in the Tower, which I knew was of greater consequence than two old priests. After the dissolution of the parliament, he told me, We must see other times and other changes; and that the lords did not think themselves in so much danger as when the parliament was sitting. But at several places, the Palsgrave-Head Tavern, and others, we have had discourse to the like effect. He would very frequently come to me, and talk with me about it. Now I asked counsel of no man, for I have no need of it in my matter; it is not matter of law, but matter of fact, that I am to make out, therefore I had no need of his advice, but he would be at my bed-side very often in a morning, and before I was dressed, and then we used to discourse together about this business, and the manner and form how it should be done, and how well I should be rewarded if I got off those lords; that is, my lord Petre, my lord Powis, my lord Stafford, and sir Henry Titchburn; these were the four that made the promises: but Mr. Reading solicited for the other lords too; they did promise a noble reward, but I could never settle or fix what it should be, but I should have acknowledgments both in money and estate, from the lords, for shortening the evidence, and bringing them off from the charge of high-treason. We had several consultations about this. The Monday that my lord Danby was sent for by the Black Rod, Mr. Reading came to me in the Speaker's chamber, and told me, Mr. Bedlow, here is a great turn, my lord Treasurer is sent for by the Black Rod, and things are like to go quite another way. Well, said I, when were you with the lords in the Tower? Said he, I have not been there these two or three days, but said he, I intend to go to-morrow, and then I will bring you word what they say. And the next day, or the day following, he came to me, and told me, that the lords did think, that I was in great measure capable of serving them now; and they would have an account of what I could say against them, that so they might view it and correct it. Accordingly he did go, and appointed to meet the 28th of March. I omit several other times that we had consultations, and now come homeward to the business. I had then a command from the lords to inspect the papers of the Spanish ambassador at White-House, and I could not meet Mr. Reading

according to promise, and I think the other witnesses will give you reasons better than I. This appointment was on Friday night; on Saturday morning, he, having missed of me the night before, came to my lodging, where I had placed Mr. Speke and my man ready against he came. None of all these conferences did I conceal, but revealed them to some of the members of the privy council, to the prince, and to my lord of Essex. As soon as ever I had discoursed with Mr. Reading about this matter, I did write it in the very words, as near as I could, and gave it to the prince, and my lord of Essex, and I think your lordships are very well satisfied that the prince and my lord knew it. And I told it to several others, as counsellor Smith, Mr. Kirby, and several others, who I was certain would be true to the secret, fearing that Mr. Reading had laid a trap to catch me with, and therefore I was very cautious, that no particular of consequence should be unknown to them. Indeed, my lord, I was very sorry to see Mr. Reading should do so, for I had a very great respect for him; and he did use to give me public advice in general, for the discovery of the Plot; only for some particular people he did solicit me that I would be a little easy, those he did solicit for. Upon the 29th of March, which was Saturday morning, when he came into the room, he asked me, is there nobody here can overhear us? I told him, no, there was not. Now I had planted that gentleman, Mr. Speke, behind my hangings, and made an hollow place in my bed, and therein laid my man, and covered him with the rug so smooth, that it did appear as if it were but newly made, and he could not perceive there was any body there; he would have spoke to me in the dining-room, but I excused it, telling him, That madam Greves, who lay in the next room, had over-heard several discourses that I had with some persons there, and therefore it would not be safe, but he had better go into my chamber (not that she could hear through the wall, but it was to bring him into my chamber); he commended my caution, and came in with me thither; and his first word, as I said, was, is there nobody that can over-hear? No, said I, it is my concern to look to that, that all be private: but, said I, what say the lords in the Tower? What says my lord Stafford, what do they intend to do? I must know speedily, for I am to give in my information to the Secret Committee of what I can say against them this night. And I can stay no longer, but must have their final answer, that I may know what to say when I come to the Secret Committee. Saith he, I will go and get their final answer, but pray put it off till Wednesday, if you can. Saith I, I cannot do that, put it off so long, but I will do what I can to put it off till Monday. Well, said he, on Monday you shall be sure to hear from me then, and I will have all things ready, as to what you have to say, and you shall have it from me. Accordingly I did stay till Monday, but the Committee of Secrecy knew it all this

time; and when I met him on Monday, I had ordered the witnesses that were by to over-hear us, to be present at the delivery of the paper; accordingly they were there, and Mr. Reading did bring it in his own hand-writing.

Reading. What room was it you were in, pray, Sir?

Bedlow. In the Painted-chamber. And as he gave me the paper, pretending to put my hand in my pocket, I clapped it with my hand privately behind me thus, and Mr. Speke took it out of my hand, and he and my man went into my lord Privy-Seal's chamber, and there they read it, and had it three hours before I ever saw it. Well, said I, what will the lords do? Why, saith he, though I have not a full answer as to what they will do, yet you may expect a noble reward; and I have order to draw up blank deeds.

Reading. Who did you give that paper to, Sir?

Bedlow. To Mr. Speke; the rest will justify it, it is your own hand-writing. But saith he, I have order to draw blank deeds to be signed in ten days after their discharge. And you may be sure that they shall be signed. Mr. Reading, said I, this is but a verbal promise, and they may perhaps hereafter charge me, for all my bringing them off, and do me a great deal of injury. That cannot be, saith he, my soul and my life for it, I have taken their words, and, if there be any faith, honour and conscience in men, it shall be done: I dare answer for them. And, Mr. Bedlow, your safety doth most consist in it; for as they must never be false with you, so they must never be at enmity with you; for at last, if you charge them with corrupting of you, you will be able to ruin them, and it will not look ill upon you, so much as upon them. But, take my word for it, you shall have a noble and worthy acknowledgment. I have authority to draw blank deeds, both for sums and estates, which they will settle upon you, and likewise a speedy supply of money, as soon as they can get it in; for my lord Stafford said, he is now cutting down wood and selling it, and when he hath raised the money, you shall have it; but he protests, at present he hath not now money to defray the charges of his family; but I have order at any time to give you what you need for present occasions. And indeed accordingly I have had a great deal of money from him, several guineas. I had all I asked for, and many times gold I did not ask for; upon what terms, other witnesses will prove better than I hereafter. When we had done, said he, Let me see what papers you have, the copy of what you have accused the queen about, and the lords, that I may carry them to the lords, and have their answer. Said I, they are at my mother's. I must needs have them, said he. So, that I might give the witnesses leave to come out, I went with him to my mother's lodgings, and pretended to look for them, but found them not, for none but the Secret Committee knows what is in them. But when I

had looked over my papers, said I, my brother, perhaps, hath got them away with him, I will go back to my lodgings and see. Oh! said he, you should make sure of such copies as you have, in some friend's hands, to secure them as well as the original. I told him, I should be sure of them at night; so he was satisfied: though I never intended he should have them, because there was business of so great consequence in them. When we came back again, we found Mr. Speke and my man in the chamber, writing. I asked Mr. Speke how long they had been there? He told me, as soon as I went out. Then said I to Mr. Speke, pray withdraw, for now I am to have Mr. Reading's instructions; if you will go before by water, I will meet you at Westminster by and by. Then I locked up the street door, and came back to Mr. Reading, and then to work we fell to write out those things that he and I did conclude upon.

Reading. You say that you and I were then alone, and your man gone away.

Bedlow. I said, that then you and I concluded upon what I should say, and what I should pitch upon they were to correct, according to what they thought would most conduce to their own safety. And when there were any words that seemed to urge any thing home upon them, then he would tell me what was law, and that, perhaps, would reach them, and then altered it. And the Monday after brought a copy to me, of his own hand-writing, far from the words that were set down in the paper that he and I concluded of together, and delivered it to me privately, and I delivered it to this gentleman, carrying it behind me thus; and he came after me and took it from me.

Sir C. Levinz. Mr. Bedlow, this, you say, was for the shortening of the evidence; how was it to be shortened?

Bedlow. To take off the whole charge of guilt, that I had sworn against them.

Sir C. Levinz. Did that, which you agreed upon to shorten, take off from the treason?

Bedlow. That which the witnesses had in writing did take off the charge of treason wholly.

Sir C. Levinz. Was it less than the information you had given in against them?

Bedlow. I told him, that it was not delivered into the Secret Committee, but indeed I had a great while before—

L. C. J. I will tell you what I apprehend he did say; if I mistake, he will set it right. He saith, When he came back with Mr. Reading, he found Mr. Speke and his man in the chamber together; he asked Mr. Speke how long he had been there; and how chanced he was up so soon? Mr. Speke said to him, I have been here ever since you went away. That, upon Mr. Bedlow's desire, he went away before him to Westminster, and they went together to consult, and great care was used, that they might not be hindered or surprized. Then Mr. Bedlow was to pen his testimony, and it was to be carried to the lords in the Tower, and they

were to consider how to have it minced, that they might be out of danger. And Mr. Reading understanding the law, whenever Mr. Bedlow spoke plain, or dictated any thing that would come home to them, would tell him of it, and that Mr. Bedlow might correct and mitigate it himself. I understand you so, Mr. Bedlow.

Bedlow. Yes, my lord, it was so. And that paper, which he brought me back, was ten times shorter than that he had of mine, which was forty times shorter than what I had given in to the Secret Committee.

Mr. Ward. Mr. Bedlow hath fully proved the discourse and bargain between him and Mr. Reading, for the lessening of his evidence.

Bedlow. All Mr. Reading's words were, that I would so shorten and lessen the charge against them, that they might come off.

L. C. J. Mr. Reading, if you have a mind to it, you have liberty to ask him any questions.

Reading. My lord, I humbly desire I may do it, when the evidence for the king is all given.

L. C. J. It is most proper to do it now.

Reading. With your lordship's favour, I have this reason for it, I do desire that the witnesses may be examined apart.

Justice Wild. Mr. Bedlow, pray let me ask you one question. I am upon the indictment, for the jury is charged upon that, and we must judge upon that, Was the agreement between you and him, that you should swear what he should direct you?

Bedlow. It was, to what he and the lords would direct.

Justice Wild. Did the lords correct your paper?

Bedlow. As he said, they have done it.

Justice Wild. Did he acknowledge it?

Bedlow. Yes, he did.

L. C. J. Mr. Bedlow, I don't understand that you were to have any conference with the lords, but you were to be shy of that, lest it should be discovered, but what conference you were to have was with Mr. Reading.

Bedlow. Yes, my Lord, and he was to give me an account what they would have me say.

Justice Jones. Shew him the paper, I suppose he will own his own hand.

L. C. J. Is that your hand, Sir?

Reading. My Lord, this is my hand, and this is that paper that I did deliver to Mr. Bedlow before Mr. Speke in the Painted-Chamber.

Ward. We desire it may be read, if your lordship think fit.

Justice Atkins. Methinks it should be material to read the paper that he gave to Reading first.

L. C. J. Have you it here, Mr. Bedlow?

Bedlow. No; he carried that paper to the lords, and brought me this again.

L. C. J. But had you never that other paper again?

Bedlow. No, I had not.

L. C. J. Did you ever take a copy of it?

Bedlow. No, I did not. But this is that corrected paper that I was to give in to the secret committee, and corrected by the Lords.

Sir C. Levinz. We do prove it in fact, that he had before given further evidence, and by this agreement he did contract to give less.

L. C. J. Mr. Reading, what do you say to Mr. Bedlow?

Reading. My Lord, if I have your lordship's direction that I may not examine my witnesses apart, I'll go on.

L. C. J. But what say you to the paper?

Reading. I do own the paper that was shewn to me, is my hand, and that I delivered it to Mr. Bedlow.

L. C. J. Then it must be read.

Sir C. Levinz. My Lord, we don't desire it should be read, for we cannot shew the former paper, that did contain more; and therefore what will the reading of the latter, which contains less, signify?

L. C. J. If you do not desire to have it read, we won't read it.

Sir C. Levinz. Mr. Bedlow's evidence is, that there was a paper much more large than this, and yet both those short of the information he had given in; now what will the reading of the one signify, without the other?

L. C. J. Do you consent to the reading of it?

Reading. My Lord, I would save your time, and make it plain.

L. C. J. Mr. Reading, You must not come to make your defence yet, till the king's evidence is over.

Reading. My Lord, I do it to open his evidence, and for your information. My Lord, Mr. Bedlow charges me, that I did write in his chamber, when his man and Mr. Speke were gone, a paper that was much larger than the paper your lordships have before you; he does say that he did desire me to go with that to the lords, and that they did correct it in several places, and being so corrected, I did bring him this paper back; and delivered it to him in the Painted-chamber, before Mr. Speke. My Lord, I do pray your lordship's favour in it; when I had the king's directions for giving in to the secret committee what information I had to give, I did deliver it into the chamber, where were Mr. Sacheverell and others, that very paper, which was written at his chamber. My Lord, I have sent to him several times, that he would deliver that to me in order to my own justification at my trial. I did desire likewise that some other papers which I did receive from Mr. Bedlow under his own hand, and which would be very material to my defence, might be brought to me, but I have not had the favour of an answer from Mr. Sacheverell, to this very hour. I do humbly desire that he may be sent to, for the delivery of them.

L. C. J. I do not know how we can send for them, if the committee will not deliver them.

Reading. Will your lordship give me leave to send to him?

L. C. J. But not by our direction, to bring them as by our command.

Reading. No, My Lord, but by my own inquiry.

L. C. J. Do what you will, as from yourself. Mr. Reading, your wife was with me yesterday, and said, you could not get Subpoena's for your witnesses; and I sent for the clerk about it, and he told me, there never was any Subpoena's denied you, but you might have had them at any time. But what say you to this paper, you of the king's counsel?

Sir C. Levinz. My Lord, we do not desire to have it read without the other.

L. C. J. Look you here, this paper must be read, for we would see whether there was a paper under your hand, expressing what evidence Mr. Bedlow was to give in this matter, and whether you did one way or other put any thing in writing which he should swear, to lessen his evidence. As for the other matter of tampering, we shall hear from others concerning it; but let us have this read, not for comparing it with the other paper, to shew the testimony is less in this than in the other, but as an evidence of the fact in itself; for we will expect a good account from you Mr. Reading, what you had to do to prescribe him his evidence in writing; therefore pray read the paper.

Then the Paper was read, *in hæc verba*:

Lord Stafford.

On discovery of the plot to me, I asked Harcourt and Le Faire how things were to be managed, they told me that his lordship was to be treasurer, and he, and Ireland, and Coleman, had money to defray all charges; I then said I never heard that his lordship was engaged before; they said he had not been long concerned, nor was he acquainted with the affair much; but that the money which was lodged with him was to be disposed of by him for the use of the church and the Catholics, and they had bound his lordship up by sacraments not to discover what the money lodged with him was to do till the time of using it, and then his lordship should know what great trust he had upon him for them; and till things were ripe he was not to be acquainted with the depth of the plot, for they knew he would never consent to the king's death till it was done. His lordship always promised to be ready to serve the church with his life and fortune.

Lord Powis.

That the Lady Abbess of Panthois told me, That his lordship had sent his daughters over to be educated in the monastery, but that his lordship's Lady had declared to her by letter, that she meant them as pledges according to her promise, to assure her that her Lord was real to carry on what he had promised concerning the introducing the Roman Catholic Religion into England. I brought over a letter from the Monks in Paris directed to his lordship, with several other letters to other popish gentlemen, tending to the death of the king, and subverting of the government; but what was in that letter to his

lordship I know not, for that I did not open it, as I had done the others, it being directed to a peer; but I believe it might be to the same effect, the Monks having informed me so at the delivering them to me; several other letters to the same effect (as the priests told me) I saw in the priests hands, directed to his lordship; but I never did read any of them, nor can I say that his lordship ever received any of them, but I saw them put into the post-house to send forwards, and I never saw his lordship at any consultation, neither did I ever hear his lordship named at any consultation where the killing of the king was mentioned or debated of: but I verily believe that his lordship was acquainted with the design of introducing popery, for that the lady Abbess and the Priests have several times told me so, or to that effect.

Lord Petre.

Mr. Tyrrel a Priest, and Madam Thimbleby his lordship's sister told me, that Mr. Thimbleby was gone to my Lord Petre's house to consult with him how to proceed in the managing of their business. Mr. Thimbleby having received letters from beyond sea in order to the introducing the Roman Catholic Religion into England; and that his lordship would not in any sort be persuaded to bring it in by force, but rather by policy; and though his lordship had truly engaged himself never to quit the design, yet she was sure he would not do it by foul means. I told her at her husband's house at Ernly, that where a design was to be carried on for so general a good, no particular way was to be pitched upon, but any thing, and all means was to be used to bring it to pass, rather than lose the design: to which she replied, that she believed and approved the same, but that she well knew his lordship's mind, that he would never agree to do it by force; but as he would not hinder it, should it go on by force, so he would further it by any other means whatsoever.

L. C. J. Here is an evidence indeed, but so impined, that it would have signified nothing as to the charge against them.

Bedlow. In the information that I gave in to the secret committee, there is ten sheets of paper in every evidence against every lord.

L. C. J. Now go to the other witnesses.

Ward. Pray swear Mr. Speke. Which was done.

Ward. Come, Mr. Speke, declare your evidence, and pray come over on this side.

L. C. J. I would have him stand on the other side, because Mr. Reading desires to examine them apart.

Speke. My lords, and you gentlemen of the jury, I should have been very loth and unwilling to have made myself so public as to have appeared here as a witness against Mr. Reading the prisoner at the bar, upon any other account than this: but at such a time as this, and in such an intrigue as this was, in which both the king and kingdom was concerned, I thought myself bound both in duty and allegiance to appear in what I have done and to testify the

truth of what I know, for the preservation and defence of both; and therefore shall declare to you the treaty that was in my hearing the 29th of March last, between Mr. Bedlow and Mr. Reading now at the bar, and I shall not for the world attest any thing but what I heard discoursed between them, but will relate it to you in their own expressions, as near as possibly I can remember; and as to the matter and substance of what I shall declare to you to be discoursed between them, I will and can both positively swear.

But before I acquaint you thereof, I must beg leave to tell you, that I knew almost daily from Mr. Bedlow, for some considerable time before, what was in the treaty between him and Reading, and how they proceeded in this affair, and therefore could the better charge my memory with their discourse, and with the passages which passed between them, and Mr. Bedlow having himself told you that he acquainted two or three persons likewise of very great quality all along with this treaty between him and Mr. Reading, and with Mr. Reading's constant and almost daily consultation and advice to him upon this account, and with his large promises to him from these popish lords and other gentlemen accused and in custody upon the account of this horrid plot.

I shall not now tire your patience so much as to acquaint you with what I had from Mr. Bedlow from time to time, after Mr. Reading had been with him discoursing of this affair; but I shall be as short as I can in coming close to the point, and therefore shall only acquaint you with the matter and substance of what I myself heard discoursed between Mr. Reading and Mr. Bedlow the 29th of March last.

The 28th of March last, I met with Mr. Bedlow here at Westminster, who privately told me, that Mr. Reading had appointed to be with him in the evening about the old affair, and therefore desired me to come to his lodgings about seven o'clock, and there should be some private place found out for me advantageously to hear their discourse: I went to Mr. Bedlow's lodgings at Whitehall about the time he desired me to come; where I met with Mr. Reading, who was then just come, and asking Henry Wiggins whether his master was at home, who told him, that he was not; upon which Mr. Reading went away, and left word with this young man that he would come again presently, and desired him to acquaint his master with it as soon as he came home: I staid there with this young man a short time after Mr. Reading was gone, asking him whether he could tell where his master was, who told me he could not, but told me that there was some company at the King's-head tavern at Charing-Cross which staid there for him, and that his master would call there before he came home; upon which I immediately went to the King's-head Tavern, and asked whether Mr. Bedlow was there; but I understood that there was some company staying there, expecting to speak

with Mr. Bedlow, but that he was not then come to them; upon which I went then to Man's coffee-house, and staid there a while, but had ordered one of the boys of the tavern to come and acquaint me as soon as Mr. Bedlow came; but finding that no one came from the tavern, after some time I went thither again, and understood that he had not been there, and that the company was gone which staid for him; and then I went back again to Mr. Bedlow's lodgings, where as soon as I came, this young man came out and told me, Mr. Reading was above, and staid there to speak with his master, on which I called him out to me, and told him I was desired by his master to come to be hid in some private place conveniently to hear the discourse between them, and therefore I contrived some way to get Mr. Reading out, that I might in the mean time convey myself into some private place, where I might be able to hear their discourse; whereupon I ordered this young man (whilst I was walking without at some distance) to go up and tell Mr. Reading that there was one which came from the King's head Tavern at Charing-Cross to acquaint him that his master was there with some company, and to tell Mr. Reading, that his master would not be able to get away from them, if he did not go to him; whereupon this young man went immediately to Mr. Reading and acquainted him with it according to my desire and direction, and then Mr. Reading went presently to the tavern, and in the mean time I got up into the bed-chamber, and placed myself between the hangings of the bed and the wall; but Mr. Reading finding not Mr. Bedlow at the tavern, went away home, and left word with this young man that he would be with his master by seven o'clock in the morning and ordered him to acquaint his master with it, that he might be up when he came; and as soon as Henry Wiggins returned back and acquainted me that Mr. Reading was gone home, and had left word with him that he would be with his master by seven o'clock in the morning, I went home, but left word with this young man, that I would be with his master by five or six o'clock in the morning, and desired him to acquaint his master with it. I got up the next morning by five o'clock, and went immediately down to Mr. Bedlow's lodgings.

Reading. Sir, you are pleased to say, that the 28th of March you was told, that I would be there about seven of the clock in the morning, and that you at first met me there, and that the appointment failing, then you came the next morning, which was the 29th.

L. C. J. I will tell you how I apprehend him: the first appointment was the 28th of March, which was on Friday, and then failing the other was the next morning which was the 29th.

Speke. As soon as I came to Mr. Bedlow's lodgings, I caused the centinel to knock hard at the door to raise them up; and in the mean time I went into King-street, expecting to have got into some coffee-house or other for to drink a dish of coffee, whilst they were rising, but it

was so early that there was no coffee-house open; upon which I was forced to return back again to Mr. Bedlow's lodgings, and then this young man and maid were both got up, and did let me in, and I went up immediately to Mr. Bedlow, and raised him out of his bed; and somewhat before 7 o'clock we placed this young man upon the bed, with the rug only on him, and prepared a place for me on the inside of the bed, between the hangings of the bed and the wall.

L. C. J. You say he was on the bed, and you between the bed and the wall?

Speke. Yes, my lord, between the bed and the wall I was, and he on the bed; and as soon as ever I heard somebody knock at the door (the door being locked by Mr. Bedlow's order, to give me notice of his coming) I ran immediately into my station before he came up, and presently after the door was open, I heard Mr. Reading's voice as he was coming up stairs, (which I know almost as well as his person) as he was speaking to the maid, and afterwards to Mr. Bedlow, who met him either in the passage or at the stair-head, and then they came both into the bed-chamber, (where, I believe, Mr. Reading little thought any body was) though he was so cautious as to ask whether there was nobody there that could over-hear him; to which Mr. Bedlow replied, No; no, or some words to that effect. And then Mr. Bedlow began, and said to Mr. Reading, What say the lords in the Tower now? and what says my lord Stafford as to the estate in Gloucestershire? To which Mr. Reading then replied, and said, My lord has faithfully promised me to settle that estate upon you, and I have orders from my lord to draw up a blank deed in order to settle it on you; which deed my lord hath engaged me to sign and seal ten days after he shall be discharged, you bringing him off from this charge of High-Treason, by shortening and contradicting of your evidence. And Mr. Reading said, My lord Powis, my lord Petre, and sir Henry Tichburn, have faithfully engaged and promised me, that they will every one of them give you a very large and noble reward, which shall be suitable to the service you shall do them, by shortening and contracting of your evidence against them, and in bringing them off likewise from this charge of High-Treason. To which Mr. Bedlow replied and said, I will not rely upon their promises only, but do expect to have something under their hands. To which Mr. Reading then replied and said, They do not think it fit and convenient for them to do that as yet, but you may safely and securely take my word, as I have done theirs, they having all so faithfully promised me to perform all I have told you from them. And Mr. Reading finding that Mr. Bedlow doubted their performances, according to their words, did moreover use these very expressions, and said, I will engage my life for it. To which Mr. Bedlow then replied, I will then take your word, as you have done theirs. And also told him, The Committee do press

upon me to deliver in what I have to say against the lords, and therefore I desire I may have their answer speedily, that I may know what they intend to do, and what they do resolve upon, because I cannot well defer delivering in what I have to say against them any longer than this night, because I hear they come very speedily upon their trials. To which Mr. Reading then replied, That he was sure they could not be brought to their trials before Easter, telling Mr. Bedlow what the parliament must do first, and how they were to proceed in this case: That they must come down to be arraigned, and after that, they must have time to give in their answer, and after that, they must have time to prepare for their trials; and old him, that he might very well defer it till Wednesday; but Mr. Bedlow told him, that he could not defer it till Wednesday, but he would put it off till Monday, and longer he could not: And then Mr. Reading said, that he would go presently to the lords and acquaint them with what he said, and that he should not fail of having their answer by him on Monday, and that it should be ready for him to deliver it into the Committee that night. And after this dialogue was over between Mr. Reading and Mr. Bedlow, they went out into the dining-room, and there Mr. Reading stayed till Mr. Bedlow had quite dressed himself, and afterwards went out both together, and stayed away about half an hour; and when they returned, I and this young man were both together in the dining-room, and then Mr. Bedlow spoke to me as if I were but just come, asking me how long I had been there; I told him I just called on him as I was going to Westminster, or somewhat to that purpose, so that Mr. Reading might not any ways suspect my being there before-hand, to hear the dialogue which passed between them. Mr. Reading then called for a sheet of paper and pen and ink, and went into the bed-chamber, speaking and desiring Mr. Bedlow to follow him; but after Mr. Reading was gone into the bed-chamber, Mr. Bedlow came to me, as I was standing by the chimney, and whispered to me, that they were then just going to draw up what they had concluded on, that the lords might see it and correct it as they thought fit and that they might send him on Monday, in writing, what he should deliver into the Committee to swear against them; which I saw delivered by Mr. Reading, according to his promise, to Mr. Bedlow, on the Monday morning following, in the Painted-Chamber at Westminster, which paper was writ by Mr. Reading's own hand, Mr. Bedlow delivering it to me as soon as ever Mr. Reading left him; and then I and another gentleman of quality went up immediately into the room they call the Lord Privy-Seal's room, where the Committee of lords use to sit, and there Mr. Wharton and I read the paper so delivered, being writ by Mr. Reading's own hand.

Jury. Did you see Mr. Reading's face?

Mr. Speke. Ay, between the door and the wicket, but not in the room. On the Monday

morning following, Mr. Bedlow desired that I would be here at Westminster before-hand, and he would come thither. And he told me they were to correct the Paper, and he was to bring it corrected, and, said he, pray follow me, and see the paper delivered.

Reading. What day was that he desired you?

Speke. It was upon Saturday, the 29th of March, that I overheard what was said, and it was upon the Monday morning following that I met with Mr. Bedlow, and he bid me go to Westminster before. And I did so, and when we met at Westminster I went after Mr. Bedlow at a distance: And in the middle of the Court of Requests he met with Mr. Reading, and they went together into the Painted Chamber, and I followed them at a distance; my eye was very much upon them, but I saw Mr. Reading was very cautious that I should not see the paper delivered; and indeed I was as shy as he, that he should not see that I took notice of it, but I did direct my eye somewhat carelessly that way, and at last I saw the paper delivered by Mr. Reading to Mr. Bedlow, and as Mr. Bedlow told you, I and another gentleman of quality went away to the Lord Privy Seal's lodgings, where he opened the paper, and saw what was delivered to him, and read it: and this is all I have to say.

L. C. J. Shew him the paper. Is this that paper, that you saw him deliver to Mr. Bedlow?

Sir C. Levinz. Look upon it, Sir, is that the paper?—*Speke.* Yes, my lord, certainly I take it so to be.

Just. Atkins. He hath owned it.

L. C. J. Mr. Reading, if you would ask this gentleman any questions this is your proper time.

Reading. I hope your lordship will give me the favour to examine them apart.

Just. Wild. Mr. Reading, you do confess what Mr. Speke says to be true?

Reading. My Lord, I did deliver that very paper to Mr. Bedlow in the Painted Chamber in the Court of Requests before Mr. Speke, and it is every word of it of my own hand writing.

Just. Dolben. Did you see Mr. Reading in the room?

Speke. I did not see him, till he was between the wicket and the door.

Just. Wild. Mr. Speke, let me ask you one question; did not you know his voice?

Speke. I knew his voice almost as well as his person.

L. C. Baron. You are sure it was he?

Speke. Yes, I am very confident it was he.

L. C. J. And the discourse was, that he would have it put off till Wednesday, but Mr. Bedlow would not, but only put it off till Monday, and then they agreed upon a paper, an account of which Mr. Reading promised to give on the Monday following.

Speke. Yes, my Lord, it was so.

L. C. J. So that the fact does answer the discourse, for on the Monday following the paper was delivered.

Mr. Ward. Here is only one other evidence, and that is Mr. Bedlow's servant, that was put in the bed, as Mr. Bedlow tells you. Pray swear Henry Wiggins. Which was done.

Sir C. Levinz. Come on, young man, speak your knowledge of this matter.

Wiggins. My lord, what I have to say is this.

L. C. J. Speak out.

Wiggins. What I have to say, is only what Mr. Speke hath said before; and indeed he hath been so very plain, and so exact in all particulars, that I need say but little, and therefore shall be very short. My lord, on Saturday the 29th of March last, Mr. Reading came to my master's lodging between seven and eight in the morning. I was placed on the bed, with the rug only on me; and Mr. Speke was behind the bed, between the hangings of the bed and the wall. As soon as Mr. Reading came into the room, he asked my master, if there were nobody there that could hear them? My master said, No. Then my master asked, What say the lords in the Tower now? And, What says my lord Stafford, as to the estate in Gloucestershire? Saith he, my lord hath promised faithfully to settle it upon you; and has given me order to draw up blank deeds, which in ten days after his discharge, he will sign: And this was for the lessening the evidence. I think those were the words. And just then the rug troubling me, that I could not hear well, I put it off my head; and, my lord, I saw Mr. Reading stand by my master in the chamber. Saith he, my lord Powis, my lord Petre, and sir Henry Tichburn, have all promised you a suitable reward to the good service you shall do them, in bringing them off from their charge. Saith my master, I do not think fit to rely upon their promises only; but do expect something under their hands. No, said he, they do not think it convenient for them to do that, as yet; but you may safely take my word, as well as I have done theirs: And I will engage my life for it. (Which were the words Mr. Reading used.) Saith my master, The committee do press upon me to give in my evidence, and I cannot defer it any longer than this night. Saith Mr. Reading, They cannot come to their trial till Easter; because such and such things are to be done, (as Mr. Speke hath told you) before they can come to their trials, which cannot be done till then: And you may very well defer it till Wednesday. No, said my master, I cannot; but I will do what I can to defer it till Monday. Saith Mr. Reading, I will then go to the lords, and acquaint them with what you say; and bring you an answer from them on Monday morning. And that day, when he came to the Painted Chamber, I saw him deliver that paper to my master, and my master carrying it behind him; and I saw Mr. Speke take it from him; and Mr. Speke and another gentleman went afterwards together up into my Lord Privy-Seal's room to read it.

Jury. How long was it ere you saw Mr. Reading, after the discourse in the room?

Wiggins. I got up presently after they were gone out, and I saw them together at the door; and as soon as they were gone, (as I told you) we both went out into the dining room, and went to write down what was said: And within half an hour, they came back again into the room. And saith my master to Mr. Speke, What makes you so early here? How long have you been here? Said he, I called upon you as I was going to Westminster. And then my master desired Mr. Speke to go before to Westminster: And Mr. Reading called for pen, ink, and paper; and went into the bed-chamber, speaking to my master to follow him: And so we went away.

Jury. You say, That you saw him there? and not only heard him talk, but saw him?

Wiggins. When he came into the room, the rug was over my head, and they spoke so softly that I could not hear him very well; but I put it off, without his perceiving me, and saw him then, and heard him plain: And when they went out again, I saw them both.

Speke. We opened the hangings, my lord, a little at the bottom, that he might not suspect any thing, and the curtains were but half drawn or a little more: So that, when he put off the rug, he might easily see him.

L. C. J. Have you any further evidence for the king?

Sir C. Levinz. My lord, if your lordship please, we shall trouble you with no further evidence: We have proved it by three witnesses.

L. C. J. Then, Mr. Reading, now is the time for you to make your defence: They have concluded, that are for the king.

Reading. My lord, I am very unwilling to spend any of your lordship's time in vain. There is one part of the indictment, which I do humbly take notice of to your lordship before-hand: they are so far from charging me to be of the plot, or knowing of the plot, that Mr. Bedlow hath declared the pressingness of my persuasions to him, from time to time, that he would be very full and positive, in charging any man according to his knowledge. Therefore I shall not spend any time, my lord, in speaking to that. I am obliged to Mr. Bedlow, that he hath done me so much right, in saying what he hath said of me about that: But I shall apply myself singly to what he hath given in evidence against me; and what hath been spoken to by Mr. Speke and his servant.

My lord, the indictment is, That I should endeavour to persuade to lessen his evidence against those lords, and sir Henry Tichburn; that is to say, my lord Powis, my lord Stafford, and my lord Petre: They prove nothing against me, as to the other. And my lord, because the indictment doth likewise set forth, that this was done on the behalf of these lords, and on their account, as it says, I shall humbly (before I go on to censure the evidence) give your lordship an account, upon what occasion it was, and how I went to see any of these lords, and sir Henry Tichburn here mentioned.

My lord, within a few days after the lords were sent to the Tower, Mr. Bulstrode, a gentleman of the privy-chamber to his majesty, did come to me from my lord Stafford; telling me, That my lord Stafford desired to be remembered to me, and to pray me to come to him.

My lord, I did tell that gentleman, That though I had a very great reverence for my lord, having known him long, and having been my client for several years; yet, considering how his circumstances then were, I should not venture to go to him, till I had acquainted some of the lords of the close committee with it, and had their leave.

Mr. Bulstrode said, I acted very prudently in it; And accordingly I did go, and acquainted the Prince, my Lord Treasurer, the marquis of Worcester and some other lords with it: And they told me, That my profession did privilege me to go; and God forbid, but that respect should be shewn him and the rest of the lords. Hereupon, my lord, I did go; and when I was there, I acquainted the Lieutenant of the Tower with it; who invited me to dinner with him: I did so, my lord, and my lord Stafford was there: And afterwards he did desire me to go to his quarters with him: And being there, he told me, That I was not ignorant of what he was charged with, and upon what account he was there: And he was pleased to say much concerning his own innocency. I told his lordship, I heartily wished it might appear he was as innocent as he said he was.

Then he desired me to move for his Habeas Corpus. I told him I thought it not seasonable yet to do it: I also told him, I would not at all admit myself to be of counsel for him, but for his innocency and as an innocent man; with this, that I did so expressly abhor and detest the crime that he was charged with, that though I were of counsel with him, or in the very highest degree of friendship imaginable, should I discover he was guilty of it, I would be so far from continuing of counsel for him, that I would come in as a witness against him.

My lord, upon these terms it was, that my lord took my advice, and he gave me my fee, which was two guineas.

My lord, afterwards I was desired by several of the lords to speak with sir Henry Goring, and sir John Gage, then prisoners in the Tower: And my lord, they did desire me, that I would move for their Habeas Corpus's; and, my lord, I did so. I was then sent to by my lord Brudenel, and several other gentlemen in the King's-bench, prisoners upon this account: And, my lord, I did at this bar move for several of their Habeas Corpus's. And having the direction of the Court, that though they did not deny the granting of the writ; yet notwithstanding, no benefit should be had of that writ, unless Mr. Attorney being attended in it, should give consent to their being bailed. Accordingly my lord, Mr. Attorney did attend in it, and he was pleased to say, That he would not do any thing for the bailing of any, for all that the writ was granted, till he knew what

their accusers charged them with. I then knew it was in vain to bring them up, till Mr. Attorney was satisfied.

Mr. Scroggs and I did go from Mr. Attorney to Mr. Bedlow and Mr. Oates: and the several persons for whom we were of counsel, being set down in a list, we did also set down our directions from Mr. Attorney about them; and did pray them to let us know what they had to charge any of them with. And if they were easy in their consenting to their being bailed, then we did go to Mr. Attorney to let him know it; and he being satisfied from their own mouths, did consent to the bailing of several of them.

My lord, this did occasion my discoursing several times with Mr. Bedlow and Mr. Oates, concerning the nature of the several charges, against the gentlemen they had accused. My lord, during the whole time of my being conversant with Mr. Bedlow (and he hath given your lordship an account how I came acquainted with him) though I did desire sir Trevor Williams might be here, and did send him a *Subpœna*, because I knew he was unwilling to come unless he were summoned; and I should be glad to see him here.

Bedlow. My lord, sir Trevor Williams is in the House of Commons; and ordered me to send for him, if there were occasion.

L. C. J. Then pray send for him, because Mr. Reading desires it. (Which was done). In the mean time, pray, Mr. Reading, will you go on in your defence. But all that hath been spoken, is not much to the purpose. I would have you apply yourself to the fact sworn, which is comprehensive of all the indictment; and that is, what happened in the chamber the 29th of March last: answer that fact.

Reading. I shall, my lord; but I desire Mr. Bulstrode may be examined to those points I have spoken to.

Bulstrode. My lord, I desire you would hear me, for he is very much mistaken in what he hath said concerning me: For he seems to say I came to him, which I did not do; but accidentally met him at Whitehall.

L. C. J. Look you, unless he calls you, you are not to be called by us, as a witness for the king.

Bulstrode. My lord, he served me with a *Subpœna*.

L. C. J. Mr. Reading, would you have Mr. Bulstrode examined?

Reading. Yes, my lord, if you please; I did pray him to be here to that end.

L. C. J. In this case, though he be a witness for Mr. Reading, he must be sworn: Therefore swear Mr. Bulstrode. (Which was done). Well, what do you ask him?

Reading. My lord, all I do humbly desire is, That he will give your lordship an account whether he did not come unto me in the name of my lord Stafford?

Bulstrode. My lord, I happened one day to go see sir William Goring, who was my neigh-

bour in the country: And as I was going out, I saw my lord Stafford walking: and saluting him, he asked me, Do you know one Mr. Reading, a lawyer? I asked him, What Reading? He answered, That used to be at the Parliament House. I said, I did. Then said he, Pray tell him when you see him, I would speak with him, and should be glad to see him: And in two or three days after, I met with him; and said I, Mr. Reading, my lord Stafford asked me if I knew you; and desired me to tell you, he would be glad to see you. My lord Stafford! said he; and seemed surprised at the name; and I repeated it to him: and this was all that past between me and him. And this was some time in Michaelmas term last.

L. C. J. Look you, Mr. Reading, we know that the acquaintance you had with Bedlow, and your going to the lords, was in Michaelmas term: the Habeas Corpus's and the matter of bailing was in Hilary term, which ended the 12th of February; and therefore the business between Mr. Attorney and you, must be during Hilary term. But this fact charged upon you in the indictment, and sworn by the witnesses, being on the 28th, 29th and 31st of March, that is a quite other thing: and therefore I would have you apply yourself to that.

Reading. My lord, I shall humbly observe your lordship's directions in that: But I desire to be heard in this other thing also, which was in Michaelmas term. I say, my lord, they were desiring of me to advise them, whether they should move in the House of Lords, whence most of the commitments were issued. For as to some, the charge was against them in the House of Commons, some in the House of Lords, some were generally committed by my Lord Chief Justice Scroggs; and according to the nature of the cases, so they did desire me that I would advise them how to address themselves, by one way or other, for procuring their liberty by bail or otherwise. And as to the writs obtained, and the bailing of several of them, it was in Hilary term, which was before the fact charged upon me. But I did give your lordship an account how it was, in order to have it appear naked before you; and then I should be in your lordship's judgment, which, I am sure, will be right. And I do say, my lord, that afterwards I met several times with my lord Powis and my lord Petre, at the Lieutenant of the Tower's house.

L. C. J. Here is now sir Trevor Williams; do you desire he should be sworn?

Reading. I do, my lord.

L. C. J. Then give him his oath. (Which was done).

Reading. My lord, with your lordship's favour, that which I desire sir Trevor Williams to give your lordship an account of, is this, Whether he was not pleased to bring Mr. Bedlow to my chamber, and to recommend me to him about his pardon?

Sir Tr. Williams. My lord, Mr. Reading was an acquaintance of mine; and upon what I knew, I had a great opinion of his knowledge

in the law; and Mr. Bedlow was a countryman of mine, and I was very desirous he should have his pardon as perfect as could be: And in order to that, I recommended him to Mr. Reading, and desired him to be careful about it. And that is all that I can say.

L. C. J. What further questions would you ask him?

Reading. My lord, I desire to know of him, What advice he hath heard me give Mr. Bedlow in order to his dealing ingenuously, and my pressing of him to a full discovery of the plot.

L. C. J. Mr. Reading, as to that, Mr. Bedlow hath already cleared it himself, that in all public discourses between you and him, you did carry it very plausibly; yet we will not preclude you from having your witnesses speak to that, if you will have them examined to it.

Reading. My lord, I will trouble sir Trevor Williams with no more questions.

L. C. J. You need not as to this point; Mr. Bedlow hath testified, that publicly you did advise him to make full discoveries, and spare no person.

Bedlow. I did say so at first, and I will do him justice, he did really and honestly I believe, give me that advice, as to all in public, and only spoke about those men he was concerned for, towards whom he would make me easy.

L. C. J. Pray, Mr. Reading, will you come to the fact?

Reading. My lord, at the time of my being examined before the committee, I did deliver some papers, which I had from Mr. Bedlow, and under his hand, and which do concern the evidence I am to give in my own defence: These I do beg the favour may be sent to me, to make use of them for myself, and I shall, as soon as the Court hath looked upon them, return them again.

Bedlow. There was a proposition about it, in the House of Commons; and the main paper, which, I suppose, Mr. Reading desires to produce, is in Mr. Clare's hand, to be produced, when called for, if the court think fit.

L. C. J. Have you it there, Mr. Clare?

Clare. Yes, my lord, I have.

L. C. J. Mr. Attorney, when the prisoner calls for a paper, which he himself delivered in, I think it is but fair it should be produced.

Att. Gen. (sir William Jones). Yes, my lord, I do not oppose it.

Sir C. Levinz. My lord, Mr. Reading must understand, that this is no hinge from us, but he desires such a paper, which let him make what use of it he can.

Bedlow. I suppose it is about the protection for Prickman.

Reading. Mr. Bedlow, if you please to answer it by and by, when it is read, and let me open it myself.

L. C. J. Here is now Mr. Sacheverel; what have you to say to him?

Mr. Sacheverel. My lord, in the House of Commons we have received a letter from Mr.

Reading, by which he doth desire, for his own justification, to have some papers sent him, which were delivered to the Secret Committee; I suppose he means a paper about Mr. Prickman, and a letter concerning him, and likewise a paper that contained a state of the evidence against the lords, which he pretended Mr. Bedlow had dictated to him; that, I suppose, Mr. Clare hath; for the other two, the House of Commons hath ordered me to bring them here, that if he can use them, or any other, in his own defence, he may have free liberty so to do.

L. C. J. Is there any other thing you would have with Mr. Sacheverel?

Reading. Nothing, my lord; I humbly thank him for this favour, and the House too.

L. C. J. Mr. Sacheverel, these papers you have brought, shall be put into the hands of Mr. Clare, to carry to the Secret Committee, when the trial is over.

Justice Wild. Mr. Reading, pray spare me one word; you are a lawyer, and you know how to make your defence, speak *ad idem*, the thing you are charged with, the tampering with Bedlow to take off his evidence against those lords, or else you do nothing; for we are not about the plot in general, nor are you charged with it.

Reading. My lord, I shall do nothing else; I shall not give you the trouble of speaking to any thing else; my lord, Mr. Bedlow will give your lordship an account of the discourse that I had with him, at the time that I had been to wait upon my Lord Chief Justice Scroggs; I went to him upon this occasion, Mr. Bedlow desired me to go wait upon my Lord Chief Justice, to give him an account about the particular evidence he had given; I think it was against Mr. Coleman, and that he being with my Lord Chief Justice, my lord was pleased to treat him, not as he expected from him; whereupon he fell into great expressions of passion, and went down stairs, and said, It would never be well in England, till there was an honest man than the Lord Chief Justice. When he had told me this, I told him, at what rate his lordship had endeared himself to the whole nation, by his zeal against the plot; however, saith he, do me the kindness to beg my lord's pardon, and pray him to accept of this paper. My lord, I was extremely sorry, that Mr. Bedlow had so misbehaved himself; I had a great kindness for Mr. Bedlow, I have sufficiently testified it, and now sufficiently suffer for it: and in kindness to him, I went to wait upon my lord, and delivered him the paper; I told his lordship, that I was heartily sorry, that he had carried himself in such a manner towards his lordship, but I did desire his lordship to pass it by, for I did believe Mr. Bedlow was very sorry for it. My lord said, It was sufficiently known that he was not a man of passion, but that he pitied Mr. Bedlow, and desired he would be more careful and discreet for the time to come, for his own sake, and for the kingdom's; I returned to him, and gave him this account, and what was my lord's advice to him. My lord, when he

had his pardon a drawing, and when he was asked by the king and my lord chancellor, who was his friend? who was his counsel? he was pleased to say, that I was his counsel, and his friend, recommended by sir Trevor Williams, as hath been proved; and when his majesty was pleased to ask him, what advice I had given him? he returned the king this answer; that I had bid him speak the truth with courage; to spare no man, where he could justly charge any man; and to trust God and his majesty for a reward. The king was pleased to say, the advice was honest; and bade him follow it. What I did in this matter, I did in friendship to him, because I had a great kindness for him: I have supplied him with several guineas, with a guinea or two, when he told me he has not had bread. He was pleased to tell me, that he was very sensible of the service I had done him. I appeal to him, whether ever I saw a penny of money from him in my life; he was pleased to tell me, that upon the receiving of the 500*l.* in the Proclamation, he would give me a third part, for that service I had done him, and would certainly repay me whatsoever I had lent him, and the fees that were due to me. And, my lord, upon this I did likewise tell him, that he had not carried himself well, that he had been a very great scandal, abroad and at home, and that he would not do himself right, till he had advised with Dr. Stillingfleet, Dr. Tillotson, and Dr. Lloyd. I did advise him to go to the chapel, and, upon conference with those worthy men, I desired him seriously to consider, how he could digest so many as thirty sacraments, which he had taken as obligations of secrecy; my lord, Mr. Wharton was at that time by, and he hath often heard me give him advice to this effect. Mr. Wharton undertook to go to Dr. Stillingfleet, but he desired to be excused; I did then pray him to go to Dr. Tillotson; Mr. Bedlow told me, it was no great matter, and so likewise for Dr. Lloyd. He told me, they were all mercenary men, that valued 10*s.* above any man's soul; and at this rate he was pleased to treat them. I told him, I was very sorry, and displeased to hear him to speak so ill of men of so great eminency in the world for learning and piety. My lord, in further discoursing with Mr. Bedlow, he told me he was overjoyed, that his majesty had been pleased to take off the confinement they were under, for they had not liberty to speak to one another; he, and Mr. Oates, and Mr. Dugdale; but when it was so granted, that they might now speak together, he told me, with exceeding rejoicing, that they could now lay their stories together. He did further tell me, that he had now by him several witnesses, that whatsoever he bid them swear, they would swear; and he did confess he had not done well in some things, particularly in charging Mr. Griffith. Now, my lord, that Mr. Griffith was steward to Mr. Sheldon.

L. C. J. Before you go on in this kind, Mr. Reading, I must tell you, it is not fair: here is oath made of such and such facts against you, and

you talk of discourses between you and Mr. Bedlow; either produce Mr. Bedlow to say upon his oath what he hath told you, or else produce some other witnesses to prove it, if you think it material: do you think your word shall pass for truth, by telling this story? all this matter will be nothing in the case, unless you apply it to discredit the witnesses, therefore pray produce some proof, and we will hear it; if you will ask Mr. Bedlow any questions, whereby you may entrap him, and make him contradict himself; or if you will produce any other witnesses against him, do it; but you must not be suffered to go in such discourses as these, and spend time to no purpose.

Bedlow. My lord, if your lordship please to give me leave, I will answer him.

L. C. J. Mr. Reading, I must tell you, I have as much patience as another man, and when you are charged with a crime, which you yourself know, and at first said, cannot be aggravated, I thought it fit you should have all fair liberty of speaking to defend yourself; I have had a great deal of patience to hear you already, and so have my brothers: I cannot say you have spoke unskillfully; I confess your defence is artificial, because it is nothing to the purpose: but, we must hold you to the point; if you can say any thing to disprove the fact of the 28th, 29th, and 31st of March, that is the whole matter that lies upon you; as to all other things, they signify nothing.

Reading. My lord, if I understand any thing in my own defence, I did look upon this as so material, as nothing more. My lord, when I did find this, I appeal to Mr. Bedlow, and ask him this question upon his oath, whether I did not desire him, as I had desired him before, to speak home, in what he knew for truth; that he would do well to remember, that this land groaned for the shedding of innocent blood; and whether I did not tell him, that if he should go on to add sin to sin, and charge any man unjustly, to take away his life, whether, instead of preserving the nation, by which he thought he might well deserve of it, he might not ruin it?

L. C. J. Do you desire that he should be asked that question?

Reading. My lord, I do.

L. C. J. Mr. Bedlow, you hear the question, pray answer it.

Bedlow. My lord, I do not deny, but that he hath publicly given me such advice, and hath charged me with doing of wrong, in particular, to Mr. Griffith; and I do acknowledge, that Mr. Griffith had a great deal of wrong; but, how was it? It was by the mistake of them that took him; the uncle was taken for the nephew, who was really concerned in the Plot, and that occasioned his trouble; and I told him I was very sorry for that.

Reading. Pray, Sir, did he give you a gold watch?

Bedlow. Yes, he did, and I told the committee and the prince of it presently.

Justice Wild. Mr. Bedlow, you received

several sums of money from Mr. Reading, by the oath you have taken, were those lent to you, or did you take them to be given?

Bedlow. Whereas he says, That I told him I wanted bread, it was an unreasonable thing for me to say so, for I have five dishes of meat every day allowed me, and, how could I then want bread?

Justice Atkins. And you had good sums of money too given to you.

Justice Wild. But, as I understood you, you said, whenever you wanted money, he supplied you.

Bedlow. And sometimes gave me money when I did not ask it.

Justice Wild. But answer my question. Did he give you that money for the intent that you should lessen your evidence against the lords in the Tower?

Bedlow. This money that I received of Mr. Reading, he told me, that he had received orders from the lords, that I should have what money I came for; that at present I could not have any great sum, because they could not have money, for my lord Stafford, saith he, is selling his wood, and until that be come in, he hath not wherewithal to provide for his family, but I have order to let you have what you want.

Justice Wild. And he gave you money after that?—*Bedlow.* Yes, he did.

Justice Wild. And upon that occasion?

Bedlow. Yes, I thought so. And whereas he says, my lord, that I was to pay him the money again, I must confess he was to have 100*l.* a year of every 1,000*l.* a year of my reward.

Reading. By the oath you have taken, was that the reward?

Bedlow. Yes, by the oath I have taken, so it was agreed.

L. C. J. I never knew any man go about such a business as this without some invention to palliate it with; they do not use to go downright in suborning witnesses, and say, here is so much money for you, pray forswear yourself, or pray be a knave; but, pray remember that you speak nothing but the truth, and be cautious that you do not swear too much; and so it is all gilded with pretence of the desire of truth, but then they add, You shall have a very good reward for your care in it; but if this way should be allowed, to bribe witnesses to speak the truth, or upon colour of speaking nothing but the truth, I cannot tell what will be Subornation. For it is always done upon this pretence.

Justice Atkins. Mr. Reading, there fell something from your own mouth that was discouragement enough; you asked him how he could digest 30 Sacraments, which he received as obligations of secrecy, and advised him to go to Divines to receive satisfaction about it. That was a discouragement.

Reading. My lord, I did not mean it so; I did as a Christian, and a loyal subject, advise him not to shed innocent blood. Mr. Bedlow,

you have brought me here to this bar, pray remember you and I must be at a greater.

Bedlow. I always remember it.

Reading. Pray, Sir, answer this question upon your oath. Did I ever directly or indirectly desire you to lessen any one syllable of your evidence you knew to be true?

Bedlow. I suppose there is no need to prove that, for there are two other witnesses have proved it already.

Reading. But pray, Sir, answer my question upon your oath.

Bedlow. Yes, my lord, I do upon my oath declare, That upon my bringing the lords off from the charge that was upon them, I was to have such a reward, and you told me, you had order to draw up blank deeds.

Justice Wild. Mr. Reading, pray hear me; he hath gone farther than that, and hath sworn that he did lessen his evidence against Whitebread and Fenwick upon your instigation, which is not indeed in the indictment.

Bedlow. I did then say at the Old-Bailey (because I would not spoil the design I had upon him, when my lord chief justice asked me, if that were all I could say). I told him it was all I could say at present, but in time and place convenient I could say more.

L. C. J. That is not the matter in question now here, but the other witnesses have sworn it sufficiently. The young lad swears expressly, that he remembers his master asked about the land in Gloucestershire, and you answered you had order to draw up a blank deed for the settlement: and as for the other lords, you told him, he should have a good reward suitable to the service he should do them. And you, as to that, make no kind of defence, but think we should forget it by your long discourse to other purpose.

Reading. I would not desire to spend your lordship's time in vain discourses. It lies purely on my negation, and his affirmation.

Justice Wild. No, no, it is not; here are two more, Mr. Speke and his man, that swear the same.

Reading. My lord, I come to that; and I take it for granted the law is this, that in cases of this nature, nay, of a much less nature, no man shall be accused but by lawful witnesses: and, my lord, I do insist upon it as law: so is my lord Lovelace's case, and 1 and 5 Ed. 6. If mine is not treason, yet it is a very heinous crime; and I am in your lordship's judgment, whether there is a possibility of having these, Mr. Bedlow, and the others, to be lawful witnesses. Mr. Speke, how worthy a gentleman soever he is, is one to whom I have done particular service, I have lent him money, and to this day have it not. That he should go, my lord, and place himself behind an hanging, and put a servant on a bed, to over-hear, and to eves-drop, which is the term of a crime in law; that such should pass for lawful witnesses, my lord, I hope it was never pretended to before, nor will be admitted against me: but, my lord, all my comfort is, that when I went

to him, I did never propound such a thing to Mr. Bedlow since I was born. And God deal with me here, and in the next world, according to the integrity of my heart, and the truth of what I speak now. Yesterday sevensnight, when I did not hope to see another Sunday, so spent I was with the barbarous usage I have received, I did desire Dr. Tillotson to give me the Sacrament, for I did not expect to live till the next morning. And I did pray him to remember, against the time when he and I were to meet before the great God, that what I was charged with in this indictment, is as expressly false, as ever any thing was sworn against an innocent man. I can but say this now, come life, come death, the will of his majesty and of your lordships be done. There never stood a more innocent man at this bar than I am of this fact I am charged with. And I do say, my lord, that having said this, I must, with your favour, proceed to tell you, that I desire Mr. Bedlow will be pleased but to give an answer to these two questions, and I have done. Pray, Sir, by the oath you have taken, did you lay in provisions of fire, coal, and billets behind the Palsgrave's-head tavern, and hard by Charing-Cross, to burn the city of Westminster?

L. C. J. Mr. Reading, we must see justice done on all sides: if you offer to ask him any question upon his oath, to make him accuse himself, we must oppose it.

Justice Dolben. He hath his pardon, my lord, and it ought not to be objected against him, if so.

Reading. The pardon of the king doth remit the punishment, but it doth not hinder its being objected to invalidate his testimony.

L. C. J. It doth so far set him right, that you shall not make him calumniate himself.

Justice Wild. No, you should never object it against him to accuse himself.

L. C. J. Mr. Reading, we are in a court of law, and you are skilled in the law; you have no evidence to defend yourself by, and so you think your protestations must serve for evidence: when that will not serve your turn, you strive to lead us out of the way. Upon this question to Mr. Bedlow there lies this dilemma against you: either he hath his pardon for what you object against him, or he hath not: if he hath not his pardon, then he is in danger of death for the crime, and must not accuse himself; if he hath his pardon, it doth take away as well all calumny as liableness to punishment, and sets him right against all objection. So, you know, after an act of general pardon, it is a scandal to reproach a man for that which he is thereby pardoned for. So that if he have not his pardon, his life is in danger; if he hath, neither his life nor name must suffer, and therefore such questions must not be asked him. But if you have any other questions that are pertinent to the business, propound them, and they shall be heard and answered.

Reading. My lord, I took the law to be, that no man should be accused but by lawful

witnesses, which I took him not to be, though he hath his pardon.

L. C. J. I understand lawful witnesses, or accusers, to be such whose testimony is not taken away by the law; if a man stands so in court that he cannot be received to give evidence, he is no lawful witness; as if a man be convicted of perjury, he is not a lawful witness, because he cannot be heard at all. But every thing that lessens the credit of his testimony doth not make but that he is a lawful witness; for I take him to be a lawful witness as long as he can be heard at all. And, as for the eves-dropping which you from the term of law would infer a scandal upon Mr. Speke; I take it to be a thing that makes much for the credit of the gentleman. For he was not the man that did first detect you, you were detected before by Mr. Bedlow; and as it stood only upon his testimony, should you deny it, it was but your negation and his affirmation; and therefore it concerned him (being a deed of darkness in its own nature, when he engaged himself by his discourse as much as you) to have some of unquestionable integrity and credit to detect you further in it, and for his own vindication. And it is therefore a credit to Mr. Speke that he was thought such a person, whose credit was not to be suspected, and so was set to convict you. So that it is so far from detracting from his credit, that it shews him a man reputed to be of undoubted integrity.

Bedlow. I say this, my lord, we did design to propose it to another gentleman of quality, who had been before acquainted with the design in general, but we could not find him out to acquaint him with it.

Speke. As for what he says of money he lent me, I will acquaint your lordship how it was. There was a double return in the case of my brother's election for this parliament, and he and the other gentlemen that stood with him (for there were four returned) had gotten order for the hearing of their cause, and I had taken a copy out before, and paid 6s. 8d. for it or thereabouts, and afterwards Mr. Reading comes to my chamber and brings me another order, and I told him I had one already, and asked him what he paid for it, he told me 10s. Now I knew it was but 6s. 8d. for I had paid so before: said I, what need I have another? but I suppose my brother will pay you. I had before recommended him to my brother, to manage his business in parliament, and I did desire he might be of counsel for him. I knew what passed concerning the treaty between Mr. Bedlow and him daily; but because he should not suspect me, I did carry myself very fairly and friendly to him, and, as I said, I desired my brother to employ him, and let him be of his counsel; but my brother refused, and told me he would have nothing to do with him; for, said he, I hear an ill character of him. And the 10s. for the order is the money he speaks of.

L. C. J. Is that all the money he lent you?

Speke. Yes, that is all.

Justice Atkins. Mr. Reading, this I must say to you, your aspersion of these persons with being eves-droppers, is no aspersion at all. For it was necessary for Mr. Bedlow to take this course, and it was prudent for him to make use of unsuspected persons to have it understood by the mouth of more than one witness what your practices were. For if he had not done it, and it had been otherwise discovered, he had been in the same danger that you are in now.

Reading. My lord, I have done. Since Mr. Speke hath been pleased to give you an account of this matter, I desire I may ask him one question: Whether he did not come to me to be of the counsel with his brother?

L. C. J. He hath said so already.

Reading. Did not you bring this gentleman, your brother, to my chamber?

Speke. Yes, I did.

Reading. Did not you desire me to draw up his case?

Speke. Yes, I think I did.

Reading. I spent most of a whole morning in it: Pray did I ever receive a penny of money of you?

Speke. No. I spoke to my brother to employ you, but he said he had heard an ill character of you, and he would have nothing to do with you. And you asked ten shillings for an order which I had before for 6s. and 8d.

Reading. Here is this gentleman, Mr. Hayes, who had been a clerk there, and knows it to be ten shillings every order.

L. C. J. It is not at all pertinent to the business we are upon.

Reading. He hindered me from receiving a fee from the other side, and I am twenty shillings out of pocket, and yet am thus treated for my kindness. There were three orders I paid for.

Speke. There were more concerned than my brother: You delivered but one to me, I know not how many you delivered to the rest.

Wild. I am sorry you disgrace your profession by making so weak a defence. What say you to that which past on Saturday morning at Mr. Bedlow's?

Reading. Mr. Bedlow did desire me to go to the Lords in the Tower, to tell them that he was called upon to give in his evidence against them and that he could delay it no longer; and he bid me tell them, that is to say, my lord Stafford, my lord Powis, and my lord Petre, that if they did not assure him of a good reward, he would give in such an evidence against them as should take away their lives, and he had witnesses to do it, as well as he himself; but he bid me tell them, if they would give him a reward, he would put in such an evidence as would do them no hurt at all.

Justice Wild. This is directly against you, and within the words of the indictment; 'tis a contracting with him for a reward to lessen his evidence against the four lords. He told you, as you say, thus, and thus, and you agreed to do as he said.

Dolben. You do speak the truth plainly now.

Reading. My lord, I do say this, that what I have said is true; in the presence of God I speak it. The lords do know this, and the Lord of heaven doth know it, he proposed it first to me.

Justice Atkins. It is to no purpose to talk unless you can prove it.

L. C. J. Call your witnesses, and we will hear them. Will the jury give in their verdict upon your bare assertion? We have heard you a great while; if you will call any witnesses, do.

Sir James Butler. My lord, I desire Mr. Reading may be asked, whether 56 guineas were not brought by him to Mr. Bedlow, and paid to him for to lessen his evidence against the Lords.

Bedlow. I had sometimes two guineas, sometimes more, but not any such great sum at once, but I believe more, at several times; and he told me that he had order to supply me at any time with what I wanted.

L. C. J. Come, where are your witnesses, Mr. Reading?

Reading. Here is Mr. Palmer, my lord. [Who was sworn.] My lord, I desire this gentleman may give you an account what Mr. Bedlow did say to me concerning the borrowing of any money, upon the Tuesday morning before I was clapped up: The 30th of March, as I take it, in the morning.

Justice Atkins. That was Sunday.

Reading. It was on Tuesday, my lords, the day before he received the 500*l.* I believe it was the first or second of April. My lord, this gentleman was there in the room.

Palmer. My lord, Mr. Bedlow at that time had twenty shillings in his hand of his mother's, as he said: Mr. Reading came in, said he, Mr. Reading, all my money is gone, and I have no more than this, and this I have borrowed of my mother; with that Mr. Reading clapped his hand in his pocket, and gave him two guineas. God-a-mercy, saith Mr. Bedlow, you are an honest man, and my chief fountain.

Sir Cr. Levinz. When was this money delivered?

Palmer. It was about three weeks ago.

Justice Wild. But he tells you, you were to have a sup out of this fountain.

L. C. J. He doth prove this (what use you will make of it I know not,) That on Tuesday three weeks ago, which we find to be the first of April, he saw twenty shillings in Mr. Bedlow's hand, and he said, This is all the money I have; and you clapped your hand into your pocket, and gave him two guineas, and he said, God-a-mercy, you are my chief fountain.

Justice Atkins. This was after you saw Mr. Bedlow was for your turn. This makes against you.

Reading. I desire he may be asked, whether he hath not heard Mr. Bedlow confess that he hath had money several times from me.

L. C. J. Mr. Bedlow hath confessed it.

Reading. I desire him to tell, whether Mr. Bedlow did not confess, that he did lay fuel

behind the Palsgrave-Head tavern to burn Westminster.

Bedlow. I acknowledge it; that was part of the treason I was guilty of, and for which the king pardoned me.

Reading. I desire to ask Mr. Bedlow's man one question; Whether your master, when I went along with him to fetch the privy-seal for the 500*l.*, did not desire me to lend him money for the privy-seal?

Wiggins. He said he had no money about him, and asked you if you had any, and desired you would lend him some; and then I said I had some, and so he said no more.

Reading. Was there any thing of the consideration spoken of?

Wiggins. I do not know that, I could not hear it. He spoke it in the open court, where there were a great many by.

Reading. I have several other witnesses, that will give you an account, that when he hath not had any money to pay a reckoning, he hath had it from me at several times; and the very day when he had got this money, the 500*l.*, and it was laid upon the table in the room, in the tavern where he was, he did then desire me to let him have a guinea for to pay the reckoning; and he would pay me in the afternoon.

Bedlow. I do not deny it, but that I have received several sums of money, for he always told me, I must trouble nobody else when I wanted money, but him.

Justice Atkins. They who have to deal with men of such art as you are of, must use some art with you.

Justice Wild. Did you ever promise to pay him back the money again?

Bedlow. No, my lord, but he was to have a hundred pounds a year out of every thousand pounds a year that I should have from them lords.

Reading. My lord, I do here declare, that I never had any more from the lords in the Tower, than thus: I had from my lord Stafford six guineas, and I do not know I had one more; I had never from my lord Bellasis more than two guineas; nor from my lord Petre than five, and that was at the time when I carried him the paper, which I will give your lordship an account of, by and by. I never spoke to my lord Arundel, though I met him often; nor with my lord Powis, than upon this account: Mr. Bedlow did desire me to go and tell the lords in the Tower, That if they did well reward him, he would make the charge he had against them very easy. My lord, I did tell him, This is an affair which I cannot in prudence deal in, for, said I, you are a designing man, and how you will deal with me afterwards I do not know. Said he, It is in your power, Mr. Reading, by this that I have said, to do me a mischief, because if you do discover what I have said to you, you will be believed, but if I should offer this against you, I shall never be believed. And with all the imprecations in the world I do curse myself, if I did directly or indirectly of-

fer to persuade him to diminish his evidence, but he proposed it to me. But, said I, here is one Mr. Dugdale, and he may give evidence against my lord Stafford, though you do not, and what will you do as to him? Believe me, said he, that I deal intirely with you, by this token: Did not Dugdale come to you to desire you to draw up his evidence? And so he did, my lord, and told me he would be responsible for it. I told him I was unwilling to meddle with such an affair, but if he would come to my chamber I would give him what leisure I had, in order to the drawing up of his evidence into a method; but he never came. Mr. Bedlow told me, said he, Believe me in all the rest by this token, have a care of him, he is set on purpose to ensnare you. Saith he, Tell from me, he shall do him no harm, for he hath promised to say nothing against my lord Stafford, but what I will have him to say. I desire Mr. Bedlow will answer this upon his oath: Did I ever know one Nicholas Jordan till you acquainted me with him? Had not he some estate in Gloucestershire?

Bedlow. Yes, my lord, I did tell Mr. Reading, that I would have such an estate settled upon me, of my lords, in Gloucestershire, and his words to me were these: That he had order to draw blank deeds for the conveying of that estate, which my lord would sign in ten days after his discharge.

Reading. He told me, that for the other witnesses, he would do well enough with them, and desired me to tell my lord Stafford, that he would do so and so, let him have but a reward; and believing of it, I went to the Tower, I asked my lord Stafford if he knew one Nicholas Jordan; he told me he did, he had been a tenant of some estate of his. Mr. Bedlow bid me ask him, whether he should not have a provision of money secured to him out of that farm. My lord, I told him I would acquaint his lordship with it. I did so, and my lord Stafford was pleased to tell me, that he would not give him sixpence; that he did value himself upon his own innocency, and the infamy of his accusers; that if he should offer to give him any thing, he should look upon it as the greatest part of his guilt. But, said he to me, Mr. Reading, this I must confess, you have been often with me, I am much indebted to you for fees for coming to me, if you will but write a letter to me, that you are not able to attend my business, and neglect other men's, at this rate of being paid; and that therefore I should not take it ill that you do not come to me any more, unless you may have an assurance of being satisfied and rewarded for it. And, saith he, thereupon I will write you this in answer, That I will give you the sum of 200*l.* to be paid to you within ten days after my acquittal; and, saith he, I will give you this assurance too, that you shall have this 200*l.* secured to you, as soon as ever you shall desire it. My lord, this being the sum; but withal remember, saith he at the same time, I do here declare, and pray do not fail of remembering it, that I will not, directly

nor indirectly, promise Mr. Bedlow sixpence. I went to my lord Powis, from whom I never saw sixpence in my life, and he did declare to me, that he would not for any thing in the world be guilty of the making him a promise of one sixpence (and this is certainly so); nevertheless, if Mr. Bedlow will not go on to do me a mischief, as hitherto he hath done, and shall not go on to charge me unjustly, when I am acquitted, he shall find that I will do what shall be like a gentleman; but I won't promise one farthing.

L. C. J. You have said enough, Mr. Reading.

Reading. My lord Petre said he would give never a farthing.

Justice Wild. This is against yourself.

Reading. I cannot help it, I did it to save innocent blood, God's will be done with mine, I think I was bound to do this, and I had sinned against God Almighty and my country if I had not done it. My lord, I did come back to Mr. Bedlow, and he did ask me if I had been with the lords in the Tower; I did tell him, Yes; and I did ask him whether there was any body in the bed by him. He asked me, What say the lords? I think I did tell him in very little different terms from what I have now told you, be it of what construction it will. And whereas he says, that there was a thousand pounds and writings to be drawn, I never opened my mouth to him of such a thing.

L. C. J. What say you to the estate in Gloucestershire?

Reading. That was only to secure the 200*l.* to me, 'pro consilio impenso et impendendo.' My lord, when that was done, Mr. Bedlow was pleased to tell me, for I must confess, he did desire me to give him an account, and I did come very late, as Mr. Speke says. I was in his chamber about an hour; it seems it was that time that this gentleman, as he says, was there, but Mr. Bedlow not being at home, I went away; and being to give him an account next morning, it seems this gentleman was there also, for he hath sworn it; when I came I gave him this account, and God knows it was no other; nor did I ever hear talk of any deeds drawing.

Speke. Did not you say, that the deed was to be signed in ten days?

Reading. I did tell him, that my lord would give me a letter, wherein he would promise me to secure the payment of 200*l.* within ten days after his acquittal.

Speke. I say what you said. You had orders to draw up a deed, from my lord of Stafford; which my lord had promised faithfully to seal within ten days after he was discharged.

Reading. It was only a deed for 200*l.* to be paid to me 'pro consilio impenso et impendendo;' and to be secured upon that estate in Gloucestershire.

Speke. Nay, I do not know; I heard no Latin there.

L. C. J. But what is that to Mr. Bedlow?

Justice Wild. Why should you discourse with Mr. Bedlow about your pension?

Reading. My lord Stafford did say, When you have the money, the 200*l.* do you dispose of it as you think fit.

L. C. J. This is nothing to the purpose, but an endeavour, by multiplicity of words, to make us forget what has been sworn. Answer the matter of the paper whereby the evidence was lessened.

Reading. My lord, upon this Mr. Bedlow was pleased to tell me thus in answer: That he would take their lordships' words; and bid me go along with him, and he would go fetch that evidence that he had, and would put in such and such evidence, I should write, and he should dictate. I went along with him to York-buildings, where he said his mother lay: and there he said he had left his papers; but when he came there, they were not there, but he told me his memory should serve; and we went back to the chamber. And, my lord, it seems these gentlemen were there before, and Mr. Bedlow sent them away; and when they were gone, we went into a room together, where he did dictate to me every syllable I wrote. And when he had dictated, and I had writ it, I read it, and he read it again himself. And having perused it, he said, This is that which, I think, is kind to them; and this is that I can come off with well enough in saying it; for I can make it out afterwards, that it was by hearsay. And this, saith he, do you take along with you, and carry it to the lords, and let me have their answer. And this is that very paper that I did write in Mr. Bedlow's chamber by his directions, and dictated from his mouth.

Justice Atkins. And you did carry it to the lords?

Reading. Yes, I did. And, my lord, when I had done this, I did ask him this question (I did not direct him any one syllable; but as he dictated, so I wrote): what he had to say against my lord Bellasis, and my lord Arundel? He told me, that though he was resolved to be kind to those lords, yet he was resolved the other should die. And he told me, That the 4,000*l.* and the 1,500*l.* that was to be paid to sir George Wakeman, was to be paid by my lord Bellasis. And, my lord, I began to write, and did write five or six lines here in this paper, and then left off. My lord, when I had done this, I went to the Tower the first opportunity; I did come to my lord Stafford, and I shewed him this. He told me, That he did find that Mr. Bedlow would now begin to be an honest man. My lord, afterwards I went to my lord Petre, and shewed it to him; and he did, at that time, my lord, give me five guineas; and before that I never saw a penny of his money in my life. I went to my lord Powis, and when I came, I found sir Henry Tichburn in the chamber; and it being late at night, and it being parliament-time, and I having persons that staid for me, I did desire to be excused: though sir Henry was pleased to walk out upon the leads, leaving my lord and me together, yet did not I shew him any one syllable of this paper, nor did I say any thing

to him concerning it. My lord, I think it was upon the Monday morning that I came to Mr. Bedlow's: he was not within; I then came to the Painted Chamber, and I was going up to the House of Lords, and Mr. Bedlow met me in the Court of Requests, or the Painted Chamber, one of them, and this gentleman was with him. And there he asked me for a paper: I had writ it out before, and it is this very paper that is now with Mr. Clare. He did desire me, after I had been with the Lords, to deliver a copy of this to them to write it out: and I did so; and this is writ in the third person, the other was writ in the first person; and, I think, there is no other alteration in it. My lord, that which I did deliver to this gentleman Mr. Bedlow, before Mr. Speke, was in the first person, the other was in the third. What they did with it afterwards, I cannot tell. My lord, after this the 500*l.* was received, and he promised to pay me all the next morning, and prayed me that I would come to his chamber. But when I came I missed of him. His clerk told me, he was gone abroad. I came here to Westminster; and when I came there, I went up to the Speaker's chamber, to speak with my clients there: but when I came up, the door was fastened, and I was arrested. My lord, I have done; and let it be with me, or against me, this is what I said to the Committee of Secrecy; and I speak to your lordship under the greatest tie and obligation to speak truth, in the world, that this is all I know. And whereas Mr. Bedlow did tell your lordship, that this writing that I have drawn was not as he directed, but that I had carried it to the lords, and their lordships did correct it, and I brought it back again; that I did bring him another paper: that very copy which I writ out, in the chamber, in the third person, I have; and this that is produced against me, is the first person, and I desire your lordships to look upon it, and judge whether there be any correction, more than the alteration of the person.

[Then both the Papers were shewn to Mr. Bedlow.]

Bedlow. Your lordships may see both these papers are fair written, without interlining; but there were above forty interlineations in that paper that was written in my chamber.

L. C. J. This agrees with what you said before, that when you did put in any thing that was home, he would correct it, and say, this is treason, and this will charge them; and so mended it. And it was natural there should be two papers: that which was to be kept for the Lords, was in the third person, importing, that he saith so and so; and the other was in the first person, which was to be kept by Mr. Bedlow, for the helping of his memory, I heard so and so; that he might know how to observe his contract. But what say you to this, that the first paper was, as Mr. Bedlow says, corrected, and had many interlineations, and cannot, therefore, be the same with that you produced?

Reading. My lord, I hear it; I have but this thing to answer, let it avail me any thing or nothing. I speak it in the presence of God, (pray favour me) this paper is the very paper that I did write out; there is no other interlineation in it than what you see. It never went out of my hand, from the time of my writing it in Mr. Bedlow's chamber, till the time that I shewed it them in the Tower, and I did deliver it to Mr. Sacheverel.

Justice Wild. Ay, but there was another paper, there was a paper corrected according to your intention; and then you caused this paper to be wrote out, and it was never seen since.

Reading. No other, upon my word.

Justice Wild. But he swears it, and it is obvious to the least understanding here.

Reading. My lord, I have only this to say, That it is not true.

L. C. J. But it is very probable, and it is sworn to be true.

Reading. I can only say, It is not true.

Justice Wild. I have one thing to say to you: with what colour could you justify what you did to carry the king's evidence to the prisoners, if it were no more than that?

Reading. I have but this answer for that, I did not know it was a crime.

Justice Wild. There is no mean capacity but what knows that it is a crime.

Reading. I did look upon it as a crime if I had not done it, and 'Conscientia errans ligat,' it was a point of conscience to me to do it. I did think it a duty I owed to God, to prevent perjury; and a duty I owed to my country, to prevent innocent blood.

L. C. J. Will you impeach the justice of the kingdom in that manner? You are a man of the law, don't you know, that no man ought to be of counsel for a prisoner in felony or treason, till they are assigned? And for you to carry the king's evidence to the prisoner, as you yourself confess, how can you excuse it? And here are witnesses that heard you contract with him to lessen his evidence, and *cui bono*? Was not this out of favour to the lords in the Tower, to get them off? Now you by multiplying your discourse, instead of vindicating yourself have spoiled the matter, and confessed that which amounts to the whole charge.

Justice Atkins. And you confess you were to have two hundred pounds from my Lord Stafford, which you were to distribute as you thought fit?

Justice Jones. And you have confessed, Mr. Reading, that not only you have endeavoured to take off Mr. Bedlow, but Mr. Dugdale too; for it was you first started that point.

Reading. My Lord, I have no more. I did never desire him to speak one word less than the truth; but I did my endeavour to prevent perjury, and the shedding of innocent blood; and thus I did as a good christian. My Lord I did desire also to shew you this paper, but you were pleased to over-rule it, that it should not be read.

VOL. VII.

L. C. J. We think it not material; we over-rule it not, but by way of admittance that you say true.

Reading. Pray, will you see, is there any variance between the two papers?

L. C. J. There is only the addition of the words concerning my lord Bellasis, and that was to strike terror in him, to make him come into the bargain too.

Reading. I desire Mr. Bedlow would look upon this paper also: is this your writing, Sir?

Bedlow. Yes, it is.

Reading. Since your giving me this paper in your chamber, have you ever seen it till to-day?

Bedlow. No, I have not.

Reading. Then, my Lord, I pray this; there is one Prickman a merchant in town that is broke, he wrote to me for a protection, and I desired Mr. Bedlow that he would help him to a protection; he said he would, and spoke to the prince, and others of the lords, but could not get one, for I called upon him to know his answer; but withal, told me, he had a better contrivance than any protection could be given him from a single lord, and that is this, that he would say, he was one of his witnesses, and that upon that account he would get him a protection from the committee of secrecy, and they would believe whatever he said to them. I told him I did not know of what signification that might be to my friend; he told me, yes, for he had given it to several already. I asked him, how he could justify it, if it were questioned? Oh, said he, let him say any thing, that he hath heard some body or other, in a coffee-house, call me rogue. My Lord, I never saw Mr. Prickman since; but saith, here, I will give you this business for the protecting of him; and he under-writ this, as from Mr. Treby; 'Pray, do not fail to come to me every hour, to receive what orders the committee shall send to you by me, that we may not neglect his majesty's special business; and if you do receive any let or hindrance, by any person whatsoever, send to me, and I will cause those people to be so severely punished, as so great a contempt does merit.' This was, my Lord, before my treating with the lords, in time, the 25th of March.

My Lord, when I did find he had got such tricks and ways, I did apprehend and resolve (pray give me your favour in the expression) not to do any prejudice to the king's evidence; for my Lord, I do think he is not an evidence for the king, that does go about, by any indirect means, to commit a crime. But, my Lord, I think he is a servant to the nation and does a very good piece of service to the king, that goes about the taking away the guilt of innocent blood.

L. C. J. Indeed, Mr. Reading, we must not suffer this: I told you before, that by such discourse you impeached the justice of the kingdom. If you had suspected Mr. Bedlow's honesty or truth, you should have gone to the king or council, or the secret committee (they are men of honour, and would have been as

X

tender of mens lives, as you or any other man, but for you to do it of yourself, in this way, shews it is but for a plausible excuse to colour your corrupt dealing.

Bedlow. This protection was given us by the secret committee, for Mr. Prickman.

L. C. J. It does not appear but that Prickman might be a witness.

Reading. My Lord, I have but this, and I have done. At the time when I was taken, I have several witnesses to prove it, that I was resolved to give his majesty, or the secretaries, an account of it; and I did ask Mr. Bedlow for an account he had given against the queen; and I had the paper by me, at the same time when I was taken: and I have several witnesses by me, to prove that at that time——

L. C. J. Mr. Reading, this is nothing to the purpose; will you have done? unless you can speak to the fact you are charged with. The Court hath had a great deal of patience with you already.

Reading. I have done, my Lord.

L. C. J. Gentlemen of the jury, your patience hath been very much exercised already by the long discourses Mr. Reading hath made; I shall therefore be short in my directions. He stands indicted for suborning Mr. Bedlow, in the evidence that he was to give, concerning the Lords in the Tower, that were impeached of treason by the House of Commons and Sir Henry Tichburn. This is the substance of the Indictment. There is an inducement in it concerning this horrid conspiracy, and the persons that have been executed for it, Coleman, Grove, and Ireland; but as to that, it is admitted by Mr. Reading, and it lies so much in every one's knowledge, that it should hardly need to be proved. So then the question remains only a question of fact, concerning subornation of perjury; which hath been fully proved to you, not only by Mr. Bedlow, who hath related the whole transaction, but also by Mr. Speke, who tells you that Mr. Bedlow did inform him how it went from time to time: and thereupon, to make the matter plain, and to suppress so abominable a practice, it was thought there was no better way to discover this deed of darkness, and to catch a knave, but to bring him into a secret place where he might speak freely, thinking there were no witnesses to testify against him; which was intended to have been done the evening of the 28th of March, which was Friday. But Mr. Reading and Mr. Bedlow not then meeting, the next morning at seven o'clock was appointed, when Mr. Reading did come and asked if nobody were there; of which being assured, he thought himself secure and secret. Then Mr. Bedlow asked him, what say the Lords in the Tower? What says my lord Stafford? Mr. Reading told him, that as to my lord Stafford, he should be sure of the estate in Gloucestershire, for my lord Stafford had ordered him to prepare a blank deed, which, within ten days after his discharge, should be perfected. And the rest of the lords did assure him, That after they were ac-

quitted in proportion to the service he did them, in lessening of his evidence, he should have a very plentiful reward. Thereupon, there arose farther discourse. Saith Mr. Bedlow, I will not rely upon their promise, I will have something under their hands. No, saith Mr. Reading, that they think not convenient. Saith Mr. Bedlow, I must go and deliver in my testimony to the secret committee immediately, and therefore, Mr. Reading, the writing must be made presently, or nothing can be done. Why, saith Mr. Reading, cannot you put it off till Wednesday? No, I cannot, says he. Well then, said Mr. Reading, I will go speak with the lords in the Tower, and I will bring you their answer, and be with you on Monday morning. Afterwards when they went out of the house, Mr. Speke, and the other witness, came from the places where they were privately put, and they saw Mr. Reading going out. Mr. Reading and Mr. Bedlow, within half an hour, came back again to the house, and were private together. Upon Monday morning, Mr. Speke was to watch, and see the delivery of this paper, and he gives you a very rational and distinct account, (and he is not a man that the prisoner can any way impeach in his credit) he tells you, He saw him deliver the paper out of his hand to Mr. Bedlow, and Mr. Bedlow put it towards his pocket, but afterwards put it behind him, and he followed him, and took it out of his hand. And this paper is here, which contains the purport of the evidence to be given against the Lords in the Tower; but so minced, that it is all but hearsay, and nothing will touch them, as to the matters for which they are charged: Here you have the paper under his own hand.

Now he comes to make his defence; and what hath he done? He hath made a very long discourse, but no defence at all to the matter of the indictment. He says nothing against the credit of the witnesses, but hath confessed, in effect, the whole matter that he was charged with; for what hath he to do, to carry the evidence to the lords in the Tower, and to go from one to another, to tell them thus and thus, and to receive promises from them of rewards, either in general or particular? He hath made confession of the whole of his charge in the Indictment; and without it, there is such undoubted testimony, nothing impeaching the witnesses, that I shall need to trouble you no further. Do you go together, and consider of it, and we will receive your verdict.

L. C. Baron. Gentlemen of the jury, it hath been so fully repeated by my Lord, that I shall not need to do any thing of that; but there is one little piece of the evidence, which I desire you would take notice of: Mr. Bedlow says, the paper given him upon Monday, in the Painted Chamber, which he carried behind him, and Mr. Speke took away, and which Mr. Reading brought him from the lords, did contain ten times much milder evidence than the paper dictated by him on the Saturday,

and that paper was forty times less than that which he had given in to the secret Committee.

Just. Wild. [To sir John Cutler.] Sir John, What paper is that you have in your hand?

Sir John Cutler. It is only the names of the jury, my Lord.

L. C. J. You do well to take the names of the jury with you, if you withdraw, that you may know one another: But I suppose you will not be long out.

Just. Wild. I spoke it, because you are to have no papers with you, but what are under seal.

Then the jury withdrew, and after a short recess, return again to the bar, and being called by their names, severally answered.

Cl. of the Cr. Gentlemen, are you all agreed of your verdict?

Omnes. Yes.

Cl. of the Cr. Who shall say for you?

Omnes. Our foreman.

Cl. of the Cr. How say you, is Nathanael Reading Guilty of the offence whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. This is your verdict; you say, that Nathanael Reading is Guilty of the offence whereof he stands indicted, and so you say all?

Just. Wild. It is a very good verdict.

L. C. J. It is a very good verdict, the matter lay in a small room, and I wonder how Mr. Reading could make it so long.

Just. Atkins. He was the greatest witness against himself.

L. C. J. You of the jury may take your ease.

Then the court adjourned till two of the clock, being then half an hour past one.

About half an hour after, the court returned again; and proclamation being made for attendance, the Lord Chief Justice spoke to the prisoner convicted then standing at the bar, thus:

L. C. J. Mr. Reading, you have been here upon your trial to-day, and you are convicted of a very great and heinous crime; there remains nothing now, but to receive the judgment of the law: and the rule of law is, that in all cases the court should consider 'quantitatem delicti, et qualitatem personæ,' and accordingly pronounce their judgment.

As to the quantity of the offence, you yourself did admit in the beginning of your defence that it was not capable of aggravation, but looks rather like treason than a misdemeanour; and so I shall not speak to that, for any flourishes would but sound in diminution of it.

Then we have nothing to consider, but the quality of the person; and of that there might be a great deal said, if we consider your person as a lawyer, one that should be a man of knowledge to be able to advise, a minister of justice to assist the court wherein he pleads; and

ought to be a person of untainted fidelity, that he may keep his client's secrets; and for a lawyer to be convicted for such an offence, is that which aggravates it beyond all expression, and I think we can do no less to evidence the care we have of the king's people, than to shew that there shall be greater severity used against such persons offending; and it is a great credit and benefit to the profession, that the members of it for such offences shall be dealt with more severely, than we should deal in any other case: so far will we be from lessening it in this respect. For I would have no man of the profession of the law, that should do thus, be able afterwards to draw people to him to trust him with their business; but his offence should be publicly known to all the world, that men might know him, and not employ him. In one sense, it is true, he may be trusted with a secret, by the same reason that a known liar may be, because his word is never to be believed.

There is another thing that we regard in your person too; if you were a man of a great fortune, or a large estate, I do not see but we should set that, which might be called a Ransom, rather than a fine, in this case; but it not being so, we have taken it into our consideration to do it with measure; but we will supply that defect, by a punishment of another nature, according to the old saying, 'qui non habet in crumena luat in corpore.'

Therefore the judgment of the court is this, "That you be fined 1,000*l.* that you be imprisoned for the space of one year; and that upon Monday next, between the hours of eleven and twelve, you be set in the pillory, for the space of one hour, in Palace-yard in Westminster.

And I will tell you, your offence is so great and hath such a relation to that which the whole nation is concerned in, because it was an attempt to baffle the evidence of that conspiracy, which if it had not been, by the mercy of God, detected, God knows what might have befallen us all by this time; and still the parliament have it under their consideration, how to prevent any further mischief by it; and for you, in such a way as this, to do what you can to suppress the evidence, is such a crime, that we have reason to suspect, that the rage of the people will be so great against you, that it might endanger your life. Therefore we have taken care to give a charge to the sheriff, and the justices, that the peace might be kept, and that no ill consequences may happen to you, but only the shame and infamy, to which you are condemned; and which you do deserve as well as any man that ever was convicted.

Then the Court adjourned to Hicks's hall, upon Wednesday the 30th of April: and the keeper went away with his prisoner.

On the Monday following, the prisoner was set in the pillory, according to the Judgment of the court.

251. The Trial of THOMAS WHITE, alias WHITEBREAD*, Provincial of the Jesuits in England, WILLIAM HARCOURT, pretended Rector of London, JOHN FENWICK, Procurator for the Jesuits in England, JOHN GAVAN alias GAWEN, and ANTHONY TURNER,† all Jesuits and Priests, at the Old Bailey, for High-Treason: 31 CHARLES II. A. D. 1679.

ON Friday the 13th of June, 1679, at the sessions-house in the Old Bailey, the Court being met, at which all the judges of England were present; proclamation was made of silence and attention whilst the king's commission of Oyer and Terminer, and of gaol delivery were openly read; and after the usual proclamation of attendance upon the sessions, the court proceeded to call the juries impannelled, and to the trials of the prisoners, thus:

Clerk of the Crown. Set Thomas Whitebread, John Fenwick, William Harcourt, John Gavan, Anthony Turner and James Corker, to the bar.

Capt. Richardson. They are all on.

Cl. of the Cr. Thomas White, alias Whitebread, hold up thy hand; John Fenwick, hold up thy hand; William Harcourt, alias Harrison, hold up thy hand; John Gavan, hold up thy hand; Anthony Turner, hold up thy hand; James Corker, hold up thy hand; which they all severally did.

And James Corker presented a Petition to the Court, to this effect:

"That about eight months since, the petitioner was committed for refusing to take the oaths of allegiance and supremacy; that he had lately received notice to prepare himself for his trial, against this present day, but that the same was afterwards contradicted; and that yesterday a gentleman informed him from the Attorney General, that a bill was found against him of high-treason, and that he was to prepare himself for his trial thereupon accordingly; and forasmuch as the petitioner is altogether ignorant of the matters charged upon him in the same, and by reason thereof is absolutely surprized, and unprepared for his defence, and divers gaol deliveries having been held since his first commitment, and he never called to his trial; he doth humbly beseech their honours, that he may not be tried till the next sessions, and that in the mean time he may have copies of such informations as are given in against him."

Lord Chief Justice. (Sir William Scroggs.) Mr. Corker, have you really any witnesses, without whom you cannot make your defence?

Corker. No, my lord, I have none.

L. C. J. You do not understand my question? Do not you want any witnesses now, that you may have another time?

Corker. I am a stranger to the things charged upon me.

L. C. J. Can you not tell, whether you have any witnesses or no? The matter is this, both for you and all the rest of you, that there may be no exception; you are upon the trial of your lives, and we upon our oaths, and therefore I speak it, if so be you have any witnesses because you pretend you are surprized, if you have really any, whereby you can make a better defence for yourselves than now, the court will incline to your request; but if you have not, then it is in vain to tarry.

Corker. My Lord, I verily believe I shall have witnesses.

L. C. J. As for the copy of the Indictment, it is never granted to any persons, and therefore must not be to you.

L. C. J. North. You must give us clear satisfaction, that you are real in your pretences; and must give us the names of your witnesses, where they live, and let us know what they can say for you, that we may be satisfied, for such a general allegation as this, any man living may make.

Recorder. (Sir George Jefferies) He was one of the ten that was appointed by the council to be tried.

L. C. J. Why, you had notice a week ago?

Corker. But it was contradicted the next day.

Capt. Richardson. I heard Mr. Clare say that he should be tried then.

Attorney General. (Sir William Jones.) He had notice together with the rest, but he was not in the first order of council for the trial of these persons; he sent to the clerk to know who were to be tried, and his name was left out; and so understood he was not to be tried. On Tuesday last I moved that he might be put into the order, and so he was, and now there is an order of council for it; but he had notice a week ago, as well as the rest.

Capt. Richardson. I gave them notice that all were to prepare for their trial as this day, and in order to that, I went to the council, to see what order was taken about it, and the clerk shewed me their names, amongst which Corker was left out; and I told him Corker had notice of trial, and therefore I desired I might have an order for him too; they told me, that there was no order taken about him.

Att. Gen. My Lord, I would have all the gentlemen have all the fair play in the world; therefore if he can satisfy your lordship, that he can have any witnesses that he hath not

* See ante, p. 120.

† See Introduction to the Trials for the Popish Plot, ante, vol. 6, p. 1401.

now, I am content the trial should stay to another time.

L. C. J. You shall hear the Indictment read, and there you will know what sort of treason it is you are charged with, and after that you will make your answer whether you have any witnesses.

Recorder. My lord, it will be necessary that I give your lordship an account of one thing. On Saturday night there came a gentlewoman to me, on the behalf of all the prisoners, and said there were some witnesses that she was under apprehension would not appear for the prisoners, unless they had some order; her name she told me, was Ireland, and she came in the name of all the prisoners, she said. I told her, if she would bring me a note of the witnesses names they did desire, they should have all the assistance the court could give them for the getting of their witnesses this day; but since that time I never heard of the gentlewoman, or from the prisoners.

L. C. J. Mr. Corker: you will do well to take notice what you are charged withal, and afterwards tell us, if there are any witnesses that can say any thing for your defence, at your trial for those matters.

Cl. of Cr. "You stand indicted by the names of Thomas White in the parish of St. Giles in the fields in the county of Middlesex, clerk, otherwise called Thomas Whitebread of the same parish and county, clerk; John Fenwick of the same parish and county, clerk, Wm. Harcourt of the same parish and county, clerk, otherwise called William Harrison of the same parish and county, clerk; John Gavan of the same parish and county, clerk; Anthony Turner of the same parish and county, clerk; and James Corker of the same parish and county, clerk: For that you, as false traitors against the most illustrious, most serene, and most excellent prince Charles the 2d, by the grace of God, of England Scotland, France, and Ireland, king, defender of the Faith, &c. your supreme and natural lord; not having the fear of God in your hearts, nor weighing the duty of your allegiance, but being moved and seduced by the instigation of the devil, the cordial love, true due and natural obedience, which true and faithful subjects of our said sovereign lord the king towards him should, and of right ought to bear, wholly withdrawing; and devising, and with all your strength intending the peace and common tranquillity of this realm to disturb, and the true worship of God within this kingdom of England used, and by the law established, to overthrow; and the government of this realm to subvert, and sedition and rebellion within this kingdom of England to move, stir up and procure; and the cordial love, and true and due obedience, which true and faithful subjects of our said sovereign lord the king towards him should and of right ought to bear, utterly to withdraw, put out, and extinguish, and our said sovereign lord the king to death and final destruction to bring and put, on the 24th day of April, in the 30th year of the reign of our said sovereign

lord king Charles the 2nd, at the parish of St. Giles in the fields, in the county of Middlesex aforesaid; You the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, and James Corker, with divers other false traitors, subjects of our said sovereign lord the king, to the jurors unknown, falsely, subtilly, advisedly, maliciously, and traitorously, did purpose, compass, imagine, and intend sedition and rebellion within this kingdom of England to move, stir up, and procure, and a miserable slaughter among the subjects of our said sovereign lord the king to procure and cause, and our said sovereign lord the king, of his kingly state, title, power, and government of his said kingdom of England, utterly to deprive; depose, cast down and disinherit, and him our said sovereign lord the king to death and final destruction to bring and put, and the government of this kingdom of England, and the sincere religion of God within the same, rightly, and by the laws of the same established at your will and pleasure to change and alter, and the state of this whole kingdom of England, through all its parts, well instituted and ordained, wholly to subvert and destroy, and war, within this kingdom of England, against our said sovereign lord the king, to levy: And to accomplish and fulfil your said most wicked treasons and traitorous imaginations and purposes, you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, and James Corker, and other false traitors against our said sovereign lord the king, to the jurors unknown, the said 24th day of April, with force and arms, &c. in the parish aforesaid, and county aforesaid, falsely, maliciously, subtilly, advisedly, devilishly, and traitorously, did assemble, unite, and gather yourselves together, and then and there, falsely, maliciously, subtilly, advisedly, devilishly and traitorously, did consult, consent and agree, our said sovereign lord the king to death and final destruction to bring and put, and the religion of this kingdom of England rightly, and by the laws of the same established, to the superstition of the Romish church to change and alter, and the government of this kingdom of England to subvert; and that one Thomas Pickering, and one John Grove should kill and murder our said sovereign lord the king; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, James Corker, and other false traitors against our said sovereign lord the king, to the jurors unknown, should therefore say, celebrate, and perform, a certain number of masses, then and there amongst yourselves agreed on, for the soul of the said Thomas Pickering, and for that cause should pay to the said John Grove a certain sum of money, then and there amongst yourselves agreed on; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison,

John Gavan, Anthony Turner, and James Corker, and other false traitors to the jurors unknown, in further prosecution of the treasons and traitorous consultations and agreements aforesaid, afterwards the said 24th day of April at the parish aforesaid, in the county aforesaid, falsely, subtilly, advisedly, maliciously, devilishly, and traitorously, did, severally each to the other engage yourselves, and upon the sacrament traitorously swear and promise to conceal and not to divulge the said most wicked treasons, and traitorous compassings, consultations, and purposes aforesaid amongst yourselves had, traitorously to kill and murder our said sovereign lord the king, and to introduce the Romish religion within this kingdom of England, and the true reformed religion within this realm, rightly, and by the laws of the same established to alter and change: And that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt alias Harrison, John Gavan, Anthony Turner, and James Corker, and other false traitors to the jurors unknown, in further prosecution of your said treasons and traitorous intentions and agreements aforesaid, afterwards the said 24th day of April, at the parish aforesaid, in the county aforesaid, falsely, subtilly, advisedly, maliciously, devilishly, and traitorously, did prepare, persuade, excite, abet, comfort, and counsel, four other persons to the jurors unknown, subjects of our said sovereign lord the king, traitorously our said sovereign lord the king to kill and murder, against the duty of your allegiance, against the peace of our sovereign lord the king, his crown and dignity, and against the form of the statute in that case made and provided."

How sayest thou, Thomas White alias Whitebread, art thou guilty of this High-Treason whereof thou standest indicted, or not guilty?

Whitebread. My Lord, I desire to speak one word; I am advised by counsel, and I may and ought to represent it to this court, for not only my own life, but the lives of others of his majesty's subjects are concerned in it. That upon the 17th of December last I was tried upon the same indictment, the Jury was impanelled and called, I put myself into the hands of the Jury, and the evidence was brought in and examined, particularly against me, and was found insufficient, so that the Jury was dismissed without any verdict. * I humbly submit myself to your lordships and this noble court, whether I may not have counsel in this point of law, to advise me, whether I may and ought to plead again the second time; for according to law, I am informed no man can be put in jeopardy of his life the second time, for the same cause.

L. C. J. You say well, Mr. Whitebread.

Whitebread. I speak it not for my sake only, but the sake of the whole nation no man should be tried twice for the same cause; by the same reason, a man may be tried 20 or 100 times.

L. C. J. You say well, it is observed, Mr.

Whitebread; but you must know, that you were not put in jeopardy of your life for the same thing, for first the jury were discharged of you; it is true, it was supposed when you were indicted, that there would be two witnesses against you, but that fell out otherwise, and the law of the land requiring two witnesses to prove you guilty of treason, it was thought reasonable, that you should not be put upon the jury at all, but you were discharged, and then you were in no jeopardy of your life.

Whitebread. Under favour, my lord, I was in jeopardy; for I was given in charge to the jury; and it is the case of Seyer, in 10. Eliz. he was indicted for a burglary committed the 1st of August, and pleaded to it; and afterwards another indictment was preferred, and all the judges did declare, that he could not be indicted a second time for the same fact because he was in jeopardy of his life again.

L. C. J. Surely, you were not in jeopardy, and I will shew you how you were not; suppose you had pleaded, and the jury were sworn.

Whitebread. They were so in my case.

L. C. J. It is true they were; but supposing that presently upon that some accident falls out, a witness is taken sick, and be feigned to be carried away; or for any reasonable cause, it should be thought fit by the court to discharge the jury of it, that they should not pass upon your life, are you in jeopardy then?

L. C. J. North. I would have you be satisfied with reason, and the course of law, that other mens' lives are under, as well as yours. The oath the jury take, is, that they shall 'well and truly try, and true deliverance make,' of such prisoners as they shall have in charge; the charge of the jury is not full, till the Court give them a charge at the last, after evidence had; and because there was a mistake in your case, that the evidence was not so full as might be, the jury, before ever they considered concerning you at all, they were discharged, and so you were not in jeopardy; and I in my experience know it to be often done, and it is the course of law, the clerks will tell you it is frequently done here and at other places; and this is not the same indictment, and it contains further matter, than that you pleaded to before. And then if you will make this plea good that you go upon, you must alledge a record, and shew some record to make it good, and that cannot be, because there is none, and so it will signify nothing to you, as you have pleaded it.

Whit. I desire the record may be viewed, it remains with you. I do only present this to your lordship and the Court, and desire I may have counsel.

L. C. J. No, not at all, there is no entry made of it.

Whit. I desire that counsel may advise me; for I am advised, that according to the law of the land, I ought not to plead again, and I hope your lordships will be of counsel for me.

L. C. J. Look you, Mr. Whitebread, there is no entry made upon it; and the reason is, because there was no trial; and there was no

* See ante, p. 120.

trial, because there was no condemnation or acquittal: if there had been, then you had said something.

Whit. That which I ask is, whether I ought not to be condemned or acquitted.

L. C. J. No, it is only in the discretion of the Court. For if a man be indicted for murder, and some accident should happen, (when the witness come to prove it) that he should be taken ill, and so be carried away, should the murderer escape?

Whit. That is not my case; you may do as you please.

L. C. J. But we shew, that it is in the discretion of the Court to discharge the jury upon such accidents, and then the party is not in jeopardy.

Whit. I have only prayed your lordship's discretion in this.

L. C. J. You ought to plead, and must plead.

L. C. J. North. I suppose if any of my brethren are of another opinion, than what we have expressed, they would say so.

Court. We are all of your opinion.

L. C. J. All the judges of England are of the same opinion.

Recorder. It is the constant practice.

L. C. J. It is frequent in all places, it is no new thing.—*Whit.* My lord, I am satisfied.

Cl. of Cr. Thomas White alias Whitebread, art thou Guilty of the high treason whereof thou standest indicted, or Not Guilty?

Whit. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Whit. By God and my country.

Cl. of Cr. God send thee a good deliverance. John Fenwick, art thou Guilty of the same high treason, or Not Guilty?

Fenwick. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Fenwick. By God and my country.

Cl. of Cr. God send thee a good deliverance.

Fenwick. I was tried before with Mr. Whitebread, our case is the same; the only reason why (I presume) we were not proceeded against, was, because the second witness declared he had nothing to say against us, that was Mr. Bedlow, who said, as to Mr. Whitebread and Mr. Fenwick, I have nothing to say against them; if he had given the same evidence against us, as he had done against the rest, we had been condemned, and had suffered, and so I suppose we ought to have been discharged..

L. C. J. No, it was not reasonable you should be discharged: it remains in the discretion of the Court, not to let a man that is accused of a great and capital crime escape, if there be one witness that swears expressly: do you think it reasonable such a man should go scot-free, though there wanted two that the law requires? You were not in danger, your lives were not in jeopardy.

Fenwick. My lord, we were in the same danger with those three that suffered.

L. C. J. No, we never let the jury go together to consider whether you were Guilty, or Not Guilty; we did prevent your making your

defence, because we thought it not a sufficient charge.

Cl. of Cr. William Harcourt alias Harrison, how sayest thou, art thou Guilty of the high-treason whereof thou standest indicted, or Not Guilty?

Harcourt. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Harcourt. By God and my country.

Cl. of Cr. God send thee a good deliverance. How sayest thou, John Gavan alias Gawen, art thou Guilty of the same high treason, or Not Guilty?—*Gavan.* Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Gavan. By God and my country.

Cl. of Cr. God send thee a good deliverance. How sayest thou, Anthony Turner, art thou Guilty of the same high treason, or Not Guilty?—*Turner.* Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Turner. By God and my country.

Cl. of Cr. God send thee a good deliverance.

L. C. J. Mr. Corker, you have heard the Indictment read, and what it consists of, a traitorous endeavour to subvert the government, to murder the king, to change the Protestant religion into Popery; if you have any witnesses that can be serviceable to you, as to these matters, name who they are, and where they live; if you cannot, you had as good take your trial now, as at another time.

Corker. I not only have no witnesses ready, but there are substantial circumstances, which peradventure may arise, which may induce your lordship to believe me innocent, and therefore I humbly beg, I may stay some short time to consult with those that are better skilled in the law than I am:

L. C. J. What do you mean to have counsel assigned you?

Corker. My friends, my lord.

L. C. J. Every man knows his own case best; you have been bred a scholar, and so you cannot be so ignorant as other men are: You can tell whether you have any witnesses that you think are material for your defence.

Corker. That day of the 24th of April, spoken of in the indictment, I truly and really believe I was not in town that day; but I cannot positively prove it, because I heard not of it before.

L. C. J. Is there any body that can testify where you were that day? Can you name any one.

Corker. Yes, I believe I can name one, and that is one Alice Gaton, that is now 30 miles out of town at Tunbridge, who can prove where I did go about that time.

L. C. J. I'll tell you what, if my brothers will, this woman you suppose can say something for you, we will respite your trial for to-day, send somebody for her, and we will try you to-morrow.

L. C. J. North. Or any other witnesses; for as to this 24th day of April, it is known to all the world to have been the day of the consult; but because you pretend a surprise, I

must tell you, that Mr. Attorney, sent you notice with the rest; but because you might be led into another opinion, that the council did not order it, you have the favour to be put off till to-morrow: Get your witnesses ready if you can.

L. C. J. If you have any other witnesses, or desire any order for their appearance, let us know it.

Corker. I desire I may have liberty to have my trial put off till Monday.

L. C. J. North. No, it cannot be. Monday is the essoign day, and the commission will be out.

L. C. J. Call the Jury.

Cl. of Cr. Thomas White alias Whitebread, hold up thy hand (and so as to the rest). You the prisoners at the bar, those men that you shall hear called or personally appear, are to pass between our sovereign lord the king and you, upon trial of your several lives and deaths; if therefore you or any of you will challenge them, or any of them, your time is to speak unto them as they come to the hook to be sworn, and before they be sworn. Call sir Philip Matthews.

Whitebread. We challenge him. My lord, that there may not be any further trouble, it is our general petition, that none of those that were for any of the former trials may be of this Jury, they having already passed their judgment upon the evidence they have heard.

L. C. J. You may challenge them. And therefore (speaking to the Clerk of the Crown) don't take any that were upon the last Jury for this cause.

Gavan. Nor any of the former Juries; we do this that we may avoid giving your lordship any further trouble, because if we should stay upon particulars we should too much trouble the Court.

L. C. J. North. Look you, I will tell you by the way, you have the liberty to challenge peremptorily so many. All we can do, is to give direction to the Clerk; if he do not pursue it, we do not know them, we can't tell, you must look after that.

Recorder. You have the books wherein are notes of all their names, by you.

Then the Jury that were sworn were these twelve: Thomas Harriot, William Gulston, Allen Garraway, Richard Cheyney, John Roberts, Thomas Cash, Rainsford Waterhouse, Matthew Bateman, John Kaine, Richard White, Richard Bull and Thomas Cox.

Cl. of Cr. Crier, count these: Thomas Harriot.

Crier. One, &c.

Cl. of Cr. Thomas Cox.

Crier. Twelve good men and true, stand together and hear your evidence.

Then the usual Proclamation for information was made, and the Jurymen of Middlesex summoned and not sworn were dismissed till next morning, 8 o'clock.

Cl. of Cr. Thomas White alias Whitebread,

hold up thy hand (and so to the rest). You gentlemen that are sworn, look upon the prisoners and hearken to their cause; they stand indicted by the names of Thomas White, &c. (put in the indictment *mutatis mutandis*) and against the form of the statute in that case made and provided. Upon this indictment they have been arraigned, and thereunto have severally pleaded Not Guilty, and for their trials have put themselves upon God and their country, which country you are. Your charge is to enquire, whether they or any of them are Guilty of the High Treason whereof they stand indicted, or Not Guilty. If you find them or any of them Guilty, you are to enquire what goods or chattels, lands or tenements they had at the time of the High Treason committed, or at any time since. If you find them or any of them, Not Guilty, you are to enquire whether they fled for it: If you find that they fled for it, you are to enquire of their goods and chattels, as if you had found them Guilty: If you find them Not Guilty, nor that they nor any of them fled for it, say so and no more, and hear your evidence.

Then Mr. *Belwood*, of counsel for the king in this cause, opened the indictment thus:

May it please your lordship, and you gentlemen of the Jury: the prisoners at the bar, Thomas White alias Whitebread, John Fenwick, William Harcourt alias Harrison, John Gavan and Anthony Turner, together with James Corker, stand indicted of High Treason. It is charged in the indictment, That the 24th of April, in the 30th year of the king that now is, these persons, with other traitors unknown, did purpose and conspire to stir up sedition and rebellion; to cause a miserable slaughter of the king's subjects; to depose the king of his government, and bring him to death; and to change the government and religion by laws established, and to levy war against the king. And it is further charged in the indictment, that pursuant to this intention of theirs, and the better to bring it to pass, they did assemble, consult, and agree, first to bring his majesty to death, to murder the king, and thereupon to change the religion established by law to the superstition of the Romish Church, and to subvert the whole government; and it was agreed, that Pickering and Grove should murder the king; and that therefore Whitebread, and the rest of the persons indicted, should say a number of masses for the soul of Pickering: And Grove, for this piece of service, was to have a sum of money. And the Indictment says further, That these persons did take the Sacrament to commit this treason with more secrecy; and that they did likewise prepare, excite, abet and counsel four other unknown persons to kill the king at Windsor. All these facts are said to be done advisedly, maliciously, traitorously, and devilishly, and against their allegiance to the king. To this they have pleaded Not Guilty; if the king's evidence prove it, you are to find it so.

And then Sir *Creswel Levinz*, one of the king's learned counsel in the law, opened the Charge thus:

May it please your lordship, and you gentlemen of the Jury: These prisoners at the bar are by persuasion Papists, by order and degree they are all priests. By the law of the land, viz. by a statute made the 27th of Eliz. they are all guilty of treason, for being priests, and they might be tried as such, and ought to die for it; but that is not the fact they are charged with, nor will they have the satisfaction to say that they suffer for their religion: No, they are charged with a treason of a blacker and darker nature. And though I must tell you, that it is now almost 100 years ago since that statute was made against priests coming into England, yet examples have been very rare, that any of this sort of men have died for their religion within that queen's time, or any of her successors; yet they have died upon worse accounts, and upon such accounts as they are now brought to this bar for. Such is the difference between their religion and ours, they have been suffered to live here under a law by which they ought to die. They kill the Protestants by thousands, without law or justice, witness their bloody doings at Mirendol, their massacre at Paris, their barbarous cruelty in Ireland, since the year 1640, and those in Piedmont, since 1650. But these are not the crimes they are charged with, they are not accused for their religion, but for the blackest and darkest treason that men can be charged with. They are charged with an endeavour to murder the king, under whose protection they lived. This murder of the king hath been carried on in the design of it, with all the malice and resolution that can be, from the first time that we can give you an account of it, which was the 24th of April, 1678, when these persons, and several others, did first assemble about other matters of their own, and among the rest to murder the king: There they came to a resolution that it should be done, and persons were appointed to do it; these were Grove and Pickering, who have been executed for it; they were to kill the king in St. James's park; but it pleased God that the flint of the pistol failed, to which we are more beholden than to them, that he escaped that time. They were not satisfied with that, but they sent down four butchers to murder him at Windsor, who being disappointed, they sent down others after that to murder him at Newmarket; and when all these failed, they had recourse to that treacherous and unmanly way of poisoning him, and hired one so to do; and they did not only intend to murder the king, but to make it good by force when they had done. They intended to raise an army; they had got commissions to several persons in the kingdom, to command these forces. They designed to raise 50,000 men to maintain the injustice, when they had done it. And that was not all; they had recourse to foreign assistance, and depended upon foreign succours, if they were not made

VOL. VII.

good at home. Gentlemen, they have been disappointed in all these things; they had an intention further, as I find it in my brief, to make a general massacre of all Protestants here. A thing that they have done, and we have heard of it abroad, but thanks be to God, we never knew it experimentally at home. And I hope God that hath preserved us hitherto, will preserve us still.—The mercy these men have met with, in being suffered to live under the danger of the statute, by which they might have justly died, hath not prevailed upon or bettered them at all, but been turned into monstrous ingratitude, and made them more desperate than other people would have been. Gentlemen, when all this is opened, I must tell you, if these persons be innocent, God forbid they should suffer; but if they be guilty, surely they are not fit to live among men: And truly if they be guilty, they do not only deserve to die, but to die a more cruel and miserable death, than either the mercy of our prince, or the moderation of our laws hath provided for such offenders. I shall detain you no longer, but will call the witnesses, and then you shall judge whether they be guilty or not. And we begin with Mr. Oates.—Who was sworn.

Sir *Creswel Levinz*. Pray what can you say to these gentlemen? begin with Mr. Whitebread first.

L. C. J. Mr. Oates, apply your evidence as distinctly as you can to one person at first, unless where the matter will take in all, or more than one of them.

Oates. My lord, I have evidence I desire may be called in, I shall have occasion to use them.

Gavan. It may be inconvenient. He may instruct his witnesses.

L. C. J. North. No, he shall not, for we will take care of that: But name your witnesses.

Oates. There is sir Richard Barker, Mr. Walter a minister, Mrs. Mayo, Philip Page, Mr. William Smith, and one Mr. Clay, Mr. Butler, Mrs. Sarah Ives.

Justice Atkins. Take a note of their names, and send for them.

L. C. J. Now, Mr. Oates, go on with your evidence; and when there is occasion to make use of these persons they shall be called.

Oates. The prisoner at the bar, Mr. Whitebread, was made and constituted provincial, so as it was publicly known to us, in the month of December last was twelvemonth; and he did order by virtue of his authority, one Father George Conyers to preach in the sodality of the English seminary, on the holyday which they call St. Thomas of Canterbury, i. e. Thomas of Becket's day, in which there was order given that Mr. Conyers should preach and assert this doctrine: That the oaths of allegiance and supremacy were heretical, antichristian and devilish; accordingly, this order was executed, and the sermon preached. Mr. Whitebread in the month of January wrote letters (or at leastwise, in the beginning of February, I will not

Y

be positive as to the time, because it does not occur to my memory) to St. Omers, concerning the state of Ireland, of which he had an account from archbishop Talbot, who wrote him word, that there were several thousands of Irish that were ready to rise, when the blow should be given in England.

L. C. J. Was that in Whitebread's letter?

Oates. Yes, my lord, and Mr. Whitebread did say, He did hope it would not be long ere it was given. Now, my lord, by the word Blow, we did use to understand, and had instructions to understand the death and murder of the king; and in the month of January, I think it was, that he sent over two Jesuits into Ireland, to see how the state of affairs stood there: In the beginning of April they returned, of which we had an account from Mr. Whitebread, by letters, wherein there was mention of a consult to be held in the month of April, Old Stile, and May, New Stile; and according to the order there given, there met at that consult, the prisoners at the bar, Whitebread, Fenwick, Harcourt and Turner; and if it please your lordship, all these at that consult did sign a resolve, Mr. Whitebread at his chamber, which was at Wild-house, Mr. Fenwick at his lodgings in Drury-lane, and Mr. Harcourt who had some at his chamber in Duke-street. But, my lord, I am to premise this, before I go any further, That the consult was begun at the White-horse tavern in the Strand, and there they did agree to send Father Cary to be their procurator at Rome; and after some such things were done, they adjourned into several clubs or colloquies, or what you please to call them. One was at Mr. Whitebread's chamber, another at Ireland's chamber, that is executed, another at Harcourt's, and another at Fenwick's; now here was a resolve signed by these prisoners at the bar, in which—

L. C. J. That is four of them, Whitebread, Fenwick, Harcourt, and Turner.

Oates. Yes, my lord.

L. C. J. Was Gavan there?

Oates. I dare not, my lord, affect him with that, because I cannot be positive, but I will give you my evidence against him by and by. My lord, these four gentlemen, with the rest of their accomplices, did sign a resolve, which was this, 'That Pickering and Grove should go on in their attempts to dispatch the king;' and this they did resolve upon, and gave it as their judgment, as a very excellent expedient. My lord, after this consult we did return (we were eight or ten that came over); and may it please your lordships, in the month of June, I think it was June, he came to Flanders, in order to visit his colleges, being provincial of the Jesuits of England: He did stay there, as near as I can remember, till the tenth of June, and enquiring of the Fathers how squares went in town, among other expressions he used, this was one, 'That he hoped to see the black fool's head at Whitehall laid fast enough; and that if his brother should appear to follow in his footsteps, his passport should be made too,' or to that

purpose, 'he should be dispatched.' Upon the 13th of June, Old Stile, the 23d New Stile, I had orders to come for England; according to which order I came, and did take the Packet-boat, as near as I can remember, the 24th, which was the 14th Old Stile, and we landed at Dover, the 25th, very early in the morning; and when I was at Dover, I met with the prisoner at the bar, Mr. Fenwick, and he, myself, and some others, did take coach, and come as far as Canterbury; after we had eaten and drunk there, we came six miles further, where there was a box seized by the searchers of the town of Borton, and this box was brought up by Mr. Fenwick, and directed to one Blundel, and the superscription was, as near as I can remember, in these words, 'To the honourable Richard Blundel, esq. at London.' And this prisoner at the bar, Mr. Fenwick, did desire that the searchers would send it to him (it was full of beads and crucifixes, and such things) to the Fountain tavern near Charing-Cross, and write a letter to him, by the name of Mr. Thompson, as that was the name he usually went by, when he came to Dover, and he had then brought some students there, to send over to St. Omers.

L. C. J. When went Fenwick?

Oates. When I came to Dover, I met Fenwick, by the name of Thompson, going to send over the students, and Fenwick did say, If they had searched his pockets, as they had searched his box, they had found such letters, as would have cost him his life; for, saith he, they were about our concern in hand. Then we came up to London, and arrived at London the 17th of June, Old Stile, for we lay a part of the way at Sittenburn, in the morning, and in the afternoon we came to Dartford, and came to London, Monday noon, the 17th Old Stile. And in the month of July, there was one Richard Ashby, whose right name indeed is Thimbleby, but he went by the name of Ashby, and this gentleman did bring over instructions from the prisoner at the bar, Mr. Whitebread, who was abroad in Flanders, wherein he was to propose 10,000*l.* to sir George Wakeman, to poison the king; and several other instructions there were, of which I cannot now give you an account; and withal, that a blank commission should be filled up, and ordered for sir John Gage, to be a military officer in the army, and by that gentleman's own order I delivered that commission into sir John Gage's own hand, on a Sunday.

L. C. J. Where had you that commission from Whitebread?

Oates. It was signed and sealed by him, but it was a blank, and was to be filled up.

L. C. J. Where?

Oates. It was at Wild-house.

L. C. J. How was it filled up?

Oates. It was filled up by Mr. Whitebread's order, it was signed and sealed blank, and he ordered it to be filled up, and me to take that commission and carry it to sir John Gage.

Whitebread. Did I order you?

Oates. You ordered Ashby; I saw the letter, and knew it to be Whitebread's hand.

L. C. J. Was it before he went to St. Omers?

Oates. It was while he was at St. Omers.

Whitebread. What day was it? What hour?

Oates. It was in July.

Whitebread. What time of the month?

Oates. The beginning, or middle.

Whitebread. Are you sure it was in July?

Oates. I cannot be positive, but I think it to be in July; for Ashby went to the Bath the latter end of July, or the beginning of August, and it was before he went.

Whitebread. Who was present at the signing of this commission?

Oates. There was present at the filling up of this commission, Mr. Harcourt, Mr. Ashby, and Mr. Ireland.

Fenwick. Was not I there?

Oates. I think I filled it up. I will tell you when you were there presently. My lord, when Ashby went away, Fenwick went out of town, but returned again presently, to give an account how squares went, and really I cannot remember where he had been, but as near as I can, it was in Essex; I will not be positive in it; but, my lord, this same gentleman, Mr. Fenwick, with Mr. Harcourt, did advise Mr. Ashby, that as soon as he had been at the Bath, he should go and give an account to the people in Somersetshire, and there-away, his circuit would be short and very easy, and he did not question, but before he came up to town again, to have the gentleman at Whitehall dispatched, whom they called the Black Bastard; now I leave that to the jury to expound who the meant by it.

Fenwick. What time was that, Sir, pray? You must time things, or you do nothing at all.

Oates. It was the latter end of July, or the beginning of August, it was about the time of Ashby's going to the Bath.

Fenwick. Just now he said, it was the beginning or middle of July.

Oates. I will tell your lordship what I said, that this Ashby, or Thimbleby, came from St. Omers with those orders or instructions, either the beginning of July, or the middle of July.

Fenwick. I would not interrupt you, Mr. Oates, this was some time before Mr. Ashby went to the Bath, was it not?

Oates. It was about a day before.

L. C. J. He says a thing that is plain enough: Ashby came over about the beginning or middle of July, with instructions about the commission; and about the latter end of July or beginning of August, as he remembers, this advice was given.

Oates. And so we are arrived at the affairs in August, which reflects upon these gentlemen; but now I must speak a word to this gentleman, Mr. Gavan, the prisoner at the bar, whom when I saw come into the lobby, he had gotten on a perriwig; so there was one

asked me, whether I knew him? I know him now, but truly then I did not well know him, because he was under that mask, and I could not say any thing against him then, because he being under an ill favoured perriwig, and being a man that I knew had a good head of hair of his own, I did not well understand the mystery of it, and so spared my evidence at that time from informing the council against him; but the prisoner at the bar came by the name of Gavan, and we used to call him by the name of Father Gavan: and this gentleman did in the month of June write letters——

Gavan. What year?

Oates. In the year 1678, and did give the Fathers at London an account how affairs stood in Staffordshire and Shropshire, and how diligent one Father Evers was to manage affairs in those countries.

Gavan. From whence were those letters sent?

Oates. There was only the day of the month, you know it is not the custom to date the place. When I saw the letter first, I did not know it was his hand, I took it upon report; but I will tell the jury, by and by, how I came to know it was his hand: as near as I can remember, it was in the month of July (it was July or August, this gentleman came to town, and I saw this gentleman at Mr. Ireland's chamber.

Gavan. What time of the month?

Oates. It was in July 1678, as near as I can guess.

Gavan. Upon my salvation, I am as innocent as a child unborn.

L. C. J. North. By this means you put out any witness in the world, by interrupting of them. When the witness hath done his testimony, you may ask him any questions, to ascertain the time or any thing, but you must not interrupt him till he hath done.

Oates. In the latter part of July, I think it was, but it was, as I remember, while Mr. Ashby was in town, I met him at Mr. Ireland's chamber, for he was a saying he would go see Father Ashby before he went out of town, and he gave such an account to Father Ireland, of the affairs in Staffordshire and Shropshire, as he had given in the letters before; but to prove his hand, he did draw a bill upon one sir William Andrews in Essex, for the payment of some money, of some little sucking priests, that were strolling up and down the country. I saw him write it, and it was the same hand with that letter.

Gavan. What did I write?

L. C. J. You drew a bill upon such a person, and he names him.

Oates. We are now come to August.

L. C. J. But you say he discoursed about the same things with Ireland, that he had wrote in the letter.—*Oates.* Yes, my lord.

Gavan. And what were those same things;

Oates. Why how the affairs stood in Staffordshire and Shropshire, how my lord Stafford was very diligent. I desire to be excused as to that, because it will diminish my evidence in

another part of it: I will tell you part of what was then discoursed of.

Gavan. My lord, he is sworn to speak all the truth.

L. C. J. You must speak the whole truth, as far as it concerns any of these persons.

Oates. He gave an account how prosperous things were in those countries, and did say, that there was at least two or three thousand pounds that would be ready in that country for the carrying on the design, I think it was three, but it was betwixt two and three. Now, my lord, we are arrived to our business in August; about the 12th of August, as near as I remember, but it was between the 8th and the 12th, therein I am positive, Ireland, who is executed, took his leave of us,* as if he were to go to St. Omers.

L. C. J. Where did he take his leave?

Oates. At his chamber in Russel Street. Ireland went out of town, and Fenwick, by that means, was to be treasurer and procurator to the society altogether. He had that employ afterward upon him during his absence, let Mr. Ireland go whither he would. And the 21st of August, which, as near as I remember, fell upon a Wednesday, Mr. Fenwick and Mr. Harcourt were met together at Wild-House, and some other Fathers, as Father Kaines, and one Father Blundell; and some other Fathers, whom I cannot remember.

Gavan. Was I there, pray, Sir?

Oates. No, no, Sir; I am not to talk to you still, I am to speak to the Court.

L. C. J. North. We would recommend this to you, to name persons when you speak of them.

Oates. Where I have occasion I will name them, my lord. Mr. Fenwick and Harcourt were together at Wild-House, and Mr. Kaines, and Mr. Blundell, and, as near as I remember, Mr. Langworth was there, but I will not be positive. And there lay before them at Wild-House fourscore pounds, the most of that money was guineas, which was to be paid to the 4 Irish ruffians that were to murder the king at Windsor. After it was agreed that they should do it, and Coleman, who was executed, came thither, and gave the messenger a guinea to expedite the journey; we drew off from Wild-House, and went to Mr. Harcourt's chamber; and because Mr. Harcourt had there left his Papers that were to be sent down to Windsor, there he paid the messenger the money. And that gentleman was present there, Mr. Fenwick, and this is another part of August's business. No sooner was this messenger dispatched, but within a day after, or a day before, but it was a day after, as near as I can remember, there was a consult held at the Benedictine's convent, at which Mr. Fenwick was present, and Mr. Harcourt, and there they had some more Irish news from the Irish arch-

bishop Talbot, who did give an account of the Irish affairs, how they did conspire the death of the duke of Ormond; and desired to know how affairs went in England, and desired some commissions might be sent over to some particular persons there to raise forces for the carrying on of the design, and some money to be transmitted to them. And Mr. Fenwick did bring the commissions from Wild-House (as near as I remember), but he did bring them with him, and sent them down by a special messenger to Chester, and some letters by the post. That of the post I know of my own knowledge, but that of the special messenger I had only from his own mouth. My lord, from the 24th of August, as near as I remember it fell of a Saturday, Bartholomew-day it was, but whether it fell of a Saturday I cannot be positive; but if the Court please to inform themselves of it by their Almanacks, they may.

L. C. J. There is no great matter in that, I suppose.

Oates. But this gentleman, Mr. Fenwick, did deliver me some money for my necessary incident charges, but did admonish me to procure some Masses to be said for a prosperous success upon the design. Upon the 25th day, I saw Mr. Fenwick in the afternoon at his chamber, and he was to go on the 26th day, the next day, to St. Omers, and to carry 8 or 10 students to go there to study humanity: And this is the account I have to give of Mr. Fenwick: For after I took my leave of him here, I saw him no more till he was apprehended.

L. C. J. This was about the 26th of August, was it not?

Oates. Yes, my lord, it was the 26th of August.

L. C. J. Well, go on, Sir.

Oates. The 1st or 2nd of September, we received a letter (in the beginning it was) from Mr. Whitebread, and this letter they did say was a foreign letter, and yet it paid but twopence, by which I did conclude that Mr. Whitebread was come into England, and lay somewhere privately, or was not yet come to town. On the 3rd of September I went to Mr. Whitebread's chamber, at night, but he being at supper, was not to be spoken with; but when he saw me the next morning, he did revile me, and strike me, and asked me with what face I could look upon him, seeing I had dealt so treacherously with them? Now, after that I had enquired in what respect? He answered, in the discovering of the business, for there was a gentleman that went to the king in this business, to whom I had communicated much of my information by Dr. Tongue. This gentleman had the same coloured clothes that I had, and so they not being able to give an account of the name of the person, gave only an account of the habit he was in, and therefore they charged me with it. After I had justified myself as well as I could, Mr. Whitebread did shew me a letter, which came from one Beddingfield, alias Benningfield, which did shew the Plot was disco-

* This was the perjury assigned in the second count of the indictment upon which Oates was convicted, May 9, 1685. See the Trial, *infra*.

vered, and that they were like to be undone, if it had not been for the five letters that were sent down to Windsor and intercepted, which made all to be looked upon as counterfeit; after that, I justified myself as well as I could. He told me he would be friends with me, provided I would give an account of the party, and of the minister that went with him. And this is what I have to say against Mr. Whitebread, and the prisoners at the bar; but only this, because sir George Wakeman did not accept of 10,000*l.* that was proposed to him to poison the king, this gentleman offered that 5,000*l.* more should be added.

L. C. J. Which gentleman?

Oates. Mr. Whitebread. And 15,000*l.* was accepted, and when it was accepted, Whitebread did greatly rejoice that the money was accepted to poison the king.

Whitebread. Did I tell you so?

Oates. No, there was a letter told me so; but you were in Flanders then.

Sir Cr. Levinz. What have you to say against Mr. Turner?

Oates. I speak as to his being at the consult in April, and signing the resolve of the death of the king.

L. C. J. Was Mr. Gavan at that consult the 24th of April?

Oates. Mr. Gavan was summoned to that consult; but among 40 men I cannot particularly say he was there, but I saw his name signed as to the king's death, but I cannot say I saw his person.

L. C. J. Can you say you saw his handwriting?—*Oates.* I do believe it was his:

L. C. J. Did you ever see any writing of his, but when he signed the bill of exchange?

Oates. My lord, I never saw him write but that time. It was an ill pen, as it seemed, that he writ his name with to the consult, and I did not take so particular notice of the being of his name there, till we saw the instructions in July, and then I did look over the consult particularly.

L. C. J. But I say, did you ever see his handwriting before he writ the bill?

Oates. My lord, I never saw his hand but that time.

L. C. J. And that by your comparing, was like the hand of the letter about Staffordshire?

Oates. By that I proved the letter to be written from him. It was like it, and was all as one.

L. C. J. Was it like the hand that was to the consult?

Oates. That I cannot say.

L. C. J. I thought you had said he confessed the contents of the letter, when he came out of Staffordshire?

Oates. I do say this of Mr. Gavan, that he wrote such a letter, and when he came to town, he did give an account of all the passages that the letter did contain, which was concerning the raising of money in Staffordshire, and the parts he was concerned in: and this was the account he gave.

L. C. J. Dr. Oates, you positively say, that Whitebread, Fenwick, and Harcourt were there?

Oates. Yes, my lord, for Mr. Whitebread was provincial and president of the assembly.

Sir Cr. Levinz. And Turner was there?

Oates. Yes, he was.

Sir Cr. Levinz. Dr. Oates, what was that money raised for?

Oates. They said it was for the carrying on of the design.

L. C. J. And what design was that?

Oates. Our design. And that was the subversion of the government, and destruction of the king.

L. C. J. Now, if you please, you may ask him any question.

Gavan. Mr. Oates, you say you saw my name to a letter for the taking up of money: to whom was that letter writ?

Oates. There was a letter from you to Mr. Ireland. And he did receive it by the hands of Grove.

Gavan. Where was that money to be taken up?

Oates. My lord, I say, that letter was received by Grove, who is out of the way, and cannot prove it, and was delivered to Ireland.

L. C. J. I perceive your memory is not good.

Gavan. I perceive his memory is very good.

Oates. This letter did give an account of the business of Staffordshire, and the particulars of that Mr. Gavan did afterwards give an account of by word of mouth, and some other things not fit to be named.

Gavan. Pray, where was it, Sir, that I gave an account of it; in London, or in the country?

Oates. In London.

Gavan. In what month?

Oates. In July it was.

Gavan. What part of July?

Oates. It was when Mr. Ashby was in town, the beginning or middle.

Gavan. Just now, you said it was in the latter end.

Oates. My lord, I beg this favour, that if the prisoners at the bar ask any questions, they may be proposed to the Court, for they are nimble in their questions, and do a little abuse the evidence. They put things upon them that they never say.

Mr. Justice Pemberton. Propose your questions to the Bench, that you would have asked.

Gavan. I would do so, my lord, in whose honour I have more confidence, than in whatsoever Mr. Oates says or swears.

L. C. J. But he tells you who you drew your bill of exchange upon, and that was sir William Andrews.

L. C. J. North. Do not give the king's witnesses ill words.

L. C. J. Have you any more to ask, any of you?

Whitebread. Yes, my lord.

L. C. J. See if you can catch him, he gives you a long and exact account as can be given

by any man in England ; and pray direct yourself, Mr. Whitebread, to the Court.

Whitebread. He says he was here in April, and at the consult ; now I desire to know how long before that time were you and I acquainted ?

Oates. Why, before that time I never saw Mr. Whitebread's face.

Whitebread. What employment were you to have, and what reward ?

Oates. When I came away from St. Omers, I was to attend the motion of the Fathers at your chamber, and to carry the resolve from chamber to chamber, where the Fathers were respectively met.

Fenwick. Was not you at the White-Horse tavern ?

Oates. Yes, I was there.

Fenwick. Did you dine there ?

Oates. No, our stay was short there.

Fenwick. How long did you stay in town ?

Oates. Truly, I cannot tell you exactly ; but from the time I came into England, to the time I went out again, was under twenty days.

Fenwick. Who were they that came over with you ? name the parties.

Oates. I will tell you who they were ; but it is so long since, I cannot exactly remember.

Fenwick. You need not trouble your memory, you have them in your Narrative.

Oates. My lord, there was father Williams, the rector of Wotton, the rector of Liege, Sir John Warner, sir Thomas Preston, and some others.

Whitebread. Was not Mr. Nevil there ?

Oates. I believe he was, it is like he might be there.

Whitebread. Was not sir Robert Brett there ?

Oates. I believe he might.

Whitebread. You have said so in your Narrative.

L. C. J. Perhaps a man will venture to write more than he will swear ; not that he does write what he does not believe, but that he knows he ought to be more cautious in his oath, than in his affirmation.

Fenwick. My lord, with your lordship's favour, it is upon oath.

L. C. J. North. Fenwick, you are in a court of law, and we must go according to the law ; if you will prove any contradiction in him to his oath, you must bring the persons here that saw him take the oath ; and you must not think to take a pamphlet for evidence.

Fenwick. It was sworn before a justice of peace, and will not, I suppose, be denied ; and therefore he must make his evidence agree with it, being part of his Narrative.

Gavan. You speak of one thing in August, and of another in July ; which month saw you me in ?

Oates. I told you, I saw you in town in July, and when father Ashby or Thimbleby was in town ; and you said you would go and see him.

Justice Pemberton. He says it was in July, and that is enough.

Gavan. What time in July ?

Oates. It was towards the middle or latter end.

Gavan. Was it before Mr. Ashby went to the Bath ?

Oates. It was so.

L. C. J. He says he saw you in town, when Ashby was in town, which was towards the latter end of July, or beginning of August. He cannot tell exactly whether, but positively he says before Mr. Ashby went to the Bath.

L. C. J. North. Well, to satisfy you, we will ask Mr. Oates the question again. Can you recollect whether it was the middle or latter end of July ?

Oates. My lord, as near as I can remember, it was about the middle of July that Ashby came to town, and he did not stay in town above a fortnight : and it was whilst he was in town, and designed to go down to the Bath, that this gentleman came to town, and gave account of the particulars of that letter.

L. C. J. North. You may ask him any questions ; but I would have you observe what account he gives, that about the middle of July, Ashby came to town, that he staid in town about a fortnight, as he believes, that during that time you came to town, and then was this discourse.

Oates. During that time I saw him in town, but I know not exactly when it was.

Gavan. My lord, I would ask him one question ; the thing that is brought against me is this ; he says Mr. Ashby came to town in the middle of July, that he staid in town a fortnight, that while he was there I came to town, and had such discourse : now, my lord, I desire to know, whether it was the first week, or last week, that Ashby was in town, that he saw me.

L. C. J. If he can answer it, let him.

Oates. My lord, I cannot.

L. C. J. He tells you, he cannot charge his memory with it.

Oates. No, my lord, nor will not.

L. C. J. Really, I believe there is scarce one in all this company, able to give an account of a particular time of a passage so long ago.

Gavan. No doubt he hath an excellent memory.

L. C. J. And if he had not some memorials of this he could not do it. And though he hath memorials of the most eminent passages, yet we cannot suppose he hath of all circumstances.

Gavan. But this is the substance ; and your lordship may conceive that not without reason I urge it ; for if Mr. Ashby came to town the beginning of July, and staid but a fortnight in town, and I came to town while he was here, it must be in one of the two last weeks. Now I would have it ascertained, because I may disprove it in one week or in the other.

L. C. J. It is true, you did not amiss in asking the question, if he were able to answer it ; but if it be either, it is enough to prove you guilty.

Gavan. Pray, was it only one time, or divers that you saw me in London ?

Oates. It was but one day, but, as near as I remember, I saw you twice that day; and I will tell it you by a particular circumstance, that I saw you in the afternoon when you were a little illish, and there was a cordial brought to you by an apothecary, that went by the name of Walpoole.

L. C. J. Here is memory refreshed by a circumstance, you see. Whither was it brought to him?

Oates. To Ireland's chamber.

Gavan. Who brought it, Sir?

L. C. J. An apothecary, he says, whose name was Walpoole.

Gavan. My lord, I never saw Walpoole in all my life.

L. C. J. I believe he is known well enough, such an one as Walpoole the apothecary. But ask what questions you will.

Oates. I cannot say whether it was Walpoole himself or his man, that brought it.

Gavan. I do as truly believe there is a God, an Heaven, and an Hell, as any one here does; as I hope for Salvation, as I hope to see God in Heaven, I never saw Mr. Oates before the day in January, when he says I had the periwig on, and he did not know me: and as for July, I call God to witness, I never saw him then.

L. C. J. You were in town in July?

Gavan. Upon my salvation, I was not in London.

L. C. J. You will prove that by and by.

Fenwick. I hope, my lord, we may ask him any questions in the Court, of our evidence, to make things clear?

L. C. J. Yes, you may.

Turner. Did you ever see me in all your life, before you saw me at Whitehall?

Oates. You were then in a disguised habit, and a nasty periwig, and I did not know you so well.

Turner. You, at Whitehall, was pleased to tell me, I went by another name.

Oates. I do not value names, but your person: you are the man.

L. C. J. You are the man, he says.

Turner. Did you see me at the consult?

Oates. I saw the man that speaks to me.

Turner. Who were there? and how many were present?

Oates. There were about forty or fifty.

L. C. J. When you have but one name apiece, then he can hit it right; but when you have so many names, then you are too hard for him.

Turner. Did you see me at the White-Horse?

Oates. That I will not say; for when they were in lesser clubs or colloquies, I was sure of better acquaintance with them.

Turner. Where was it you saw me?

Oates. At Mr. Fenwick's chamber.

Turner. At Whitehall, you said it was at Wild-house.

Oates. My Lord, because the chiefest part of the consult sat at Wild house, we called it all the consult at Wild-house.

L. C. J. I see your defence will be little else

but captiousness, to disprove him in circumstances of time, place, persons, or numbers; now all these are but little matters to the substance: It is true, Mr. Whitebread, if you can prove you were not at that place at that time, it will do you great service. Have you any thing more to say to him?

L. C. J. North. I hope your witnesses are in readiness that you were speaking of, to fortify your testimony.

Oates. Yes, my Lord, they are, I desire they may be heard.

L. C. J. By and by, when occasion is.

Jury. My Lord, I desire he may be asked one question.

L. C. J. Mr. Garraway, what question would you ask him?

Jury. Where it was that he saw Mr. Turner at the consult?

Oates. I saw him at Fenwick's chamber, where he was a member of the consult; and being so, I saw him sign the resolve of the king's death.

L. C. J. Did you see him?

Oates. Yes, I did.

Sir Cr. Levins. Then we desire Mr. Dugdale may be sworn (which was done). Come, Mr. Dugdale, pray will you tell my Lord and the jury what you know concerning Whitebread and Harcourt? first about Whitebread.

Dugdale. My Lord, I have very little acquaintance with the man, I have seen him at Tixall, with my old Lady Aston.

L. C. J. When?

Dugdale. I dare not speak the time, but appeal to him himself about the truth of it.

L. C. J. Is it years ago?

Dugdale. It is two or three years ago.

L. C. J. Well, what can you say against him?

Dugdale. Mr. Whitebread did write a letter that I saw under his own hand inclosed in a letter from Mr. Grove to Mr. Ewers, wherein he gave Mr. Ewers a caution, to choose those that were very trusty, it was no matter whether they were gentlemen or no, so they would be but stout and courageous: this was the purport of the letter, I cannot say the words exactly, but that he should choose those that were hardy and desperate to that purpose.

L. C. J. Pray where was it you saw that letter?

Dugdale. At Tixall.

L. C. J. How came you to see it?

Dugdale. Because all the letters were directed to me, that came to Mr. Ewers inclosed in Mr. Grove's letters: and so I intercepted the letter, and read it.

L. C. J. What was Mr. Ewers?

Dugdale. A Jesuit, my confessor; for I was entertained by Mr. Gavan to be in the conspiracy of the king's death, and so was I by several others.

L. C. J. You were not acquainted with Mr. Whitebread's hand, were you?

Dugdale. My Lord, I only came acquainted with Mr. Whitebread's hand, by seeing him

write a letter at Tixall, which he delivered to me to send.

L. C. J. I pray let them understand you: you say that Mr. Whitebread did write a letter to Mr. Ewers, inclosed in one from Mr. Grove, wherein he advised that he should entertain lusty stout fellows, and no matter whether they were gentlemen, or to that effect: now I ask you, how you do know that was Whitebread's hand? or was it his name only that was to it?

Dugdale. My Lord, I saw his name at it.

L. C. J. When you saw that letter, had you seen his hand before?

Dugdale. Yes, My Lord, I saw it to another letter which I saw him write.

L. C. J. And that was like the hand in the letter to Ewers, was it?

Dugdale. Yes I do almost positively swear it was the same hand.

L. C. J. But what say you to Gavan and Ewers?

Dugdale. There were several consultations in Mr. Ewers' chamber, my own, and at Boscobel, and several other places. Mr. Gavan might be so ingenuous as to confess it.

L. C. Baron (William Montague, esq.) What were those consultations for?

Dugdale. For conspiring the king's death, and introducing of Popery. Mr. Gavan was chiefly made use of as a good orator and learned man, and a good scholar, to persuade people into the design; this I speak as to these persons.

L. C. J. Pray go on, Sir, for you shall have a full scope, for you never were a witness in any of the trials before: and you may take your own way, and you shall be heard, you shall not be interrupted; for what you say is very considerable.

Dugdale. One Meeting I think was in September last, it was at Tixall, and there was my Lord Stafford, and several others.

L. C. J. Was Gavan there?

Dugdale. Yes, Mr. Gavan was there; I suppose he will not deny it.

Mr. Justice Pemberton. Don't rely upon that, he will deny it, you may be sure; go on. You say he was there?

Dugdale. Yes, and that was to carry on the design: and I was by to hear. I think Mr. Ireland was in the country then; there was you (speaking to Mr. Gavan), Mr. Peters, Mr. Lewson, and Mr. Ewers, at this consult, and there was another, my Lord Stafford, and others that I cannot now name.

Gavan. What time?

Dugdale. It was in September, 1678.

Gavan. What day?

Dugdale. I think it was the 21st of September.

L. C. J. What was that consult and conspiracy about, in short?

Dugdale. It was for the introducing of popery, and taking away the life of the king, I being a person chosen out for that purpose, and was to be sent to London by Mr. Harcourt to be under the tuition of Mr. Parsons.

L. C. J. Pray who mentioned this? was that the first time that ever they discoursed of the death of the king?

Dugdale. No my lord, it was two years ago, but I speak of a shorter time.

L. C. J. Who began the discourse?

Dugdale. Mr. Gavan often discoursed of it, and encouraged me to it.

L. C. J. Who broke it first to you? who seemed the principal man?

Dugdale. Ewers and Gavan.

L. C. J. By the oath that you have taken, repeat it once more, for this is new to us.

Gavan. It is so to me too upon my soul, for upon my conscience I never heard of it before.

L. C. J. It is a mighty confirmation of what was before discovered.

Dugdale. But I speak to Mr. Gavan, and appeal to him himself.

Gavan. Look upon me with confidence, if you can.

Lord Justice Pemberton. You must not threaten the king's witnesses.

Dugdale. Mr. Gavan, I desire you to inform the lords and all here present whether I was not under your tuition? And whether you knew any unjust action by me?

Gavan. You were never under my tuition.

L. C. J. Did you ever know him?

Gavan. Yes, my lord, he used to come sometimes where I was, and so we were acquainted; and I lived within eleven mile of Tixall, my lord Aston's, and having acquaintance in that family, Mr. Ewers, whom I know very well, I used to come there sometimes, but I never was in his chamber in my life. In what room of my Lord Aston's house was this discourse?

Dugdale. Some of it was in the little parlour, and some in Mr. Ewers's chamber.

Gavan. Were any present there? and who were they?

Dugdale. I have told you there was Mr. Ewers, and Mr. Lewson, and Mr. Petres, and some others; and for a further confirmation of this that Mr. Gavan may know that I had a great zeal for him, and that they did love me well, I gave them an estate, or else I believe they would not have trusted me so well as they did. I gave them 400*l.* to pray for my soul, and for the carrying on of this design; and when they told me they doubted they should want money, I promised them 100*l.* more for the carrying on the work. Upon which Mr. Gavan promised me that I should be canonized for a saint.

Mr. Justice Pemberton. Mr. Gavan himself?

Dugdale. Yes my lord.

Mr. Belwood. What do you know of any foreign assistance?

L. C. J. I would fain have all the world hear this; pray what was discoursed in the parlour in my lord Aston's house, and in Ewers's chamber?

Dugdale. It was about taking away the king's life, and introducing the Popish religion.

L. C. J. By the oath you have taken, was that their discourse?

Dugdale. Yes my lord, they were contriving how to kill the king and introduce popery.

Sir Cr. Levinz. Pray, have you heard any discourse of an army, or about making a massacre?

Dugdale. It was spoken in my hearing, and there was some discourse why they should expect forces from beyond sea, and this gentleman said (meaning Mr. Gavan) though they beyond the seas had troubles enough upon themselves, yet if we could effect it, men and money would not be wanting. I will add nothing more than the truth in what I say.

L. C. J. You deliver your testimony like a sober modest man, upon my word.

Sir Cr. Levinz. What say you as to a massacre?

Dugdale. My Lord, I have at some consultations heard speak of it, but the chief thing that they aimed at was, first, there was a letter that came out of Paris, and came through Mr. Harcourt's hands, and so came down into the country, to prove that it was the opinion of them at Paris, and St. Omers, to sling all this upon the Presbyterians, that is, the death of the king; that if any thing of that nature should happen, they should be ready to give the first alarm, and give out, that it was those still king-killing Presbyterians that had done the fact: and so they thought they should easily have brought in the Episcopal party into their company to revenge themselves of the Presbyterians.

L. C. J. It was pretty advice indeed to have it first laid on the Presbyterians, that they might get protestants to join and cut them off, and then their own throats should be cut.

Dugdale. And then, my lord, there was to be a massacre; and if any did escape that they could not be sure of were papists, they were to have an army to cut them off.

Mr. Belwood. Did he ever use any arguments to you, to prove the lawfulness of the design?

Dugdale. Yes my lord, he hath, and shewed me several examples for confirming me in it.

L. C. J. What for killing the king?

Dugdale. For the killing of any, to introduce their own religion.

Mr. Belwood. Pray, will you name some.

Dugdale. He endeavoured to prove it by Scripture, I cannot now call the text to mind; but it was to shew, how it was lawful and good to destroy any for the advantage of their religion, and then he shewed the example of Father Garnett;—how several of his reliques being beyond sea great miracles had been done by them.

L. C. J. And so now there is by St. Coleman too.

Sir Cr. Levinz. What letters have you received from Mr. Harcourt.

Dugdale. I have received several packets of letters from several persons beyond seas, which were, by his instruction, communicated

by Mr. Grove to Mr. Ewers, which letters did contain treason in them, for the introducing of popery, and killing and destroying the king.

L. C. J. How can you tell that?

Dugdale. Mr. Harcourt hath given it under his own hand, and I have intercepted the letters and read them.

L. C. J. You were acquainted with the hand?

Dugdale. Yes, my lord.

L. C. J. You read the letters?

Dugdale. Yes, my Lord, I did.

L. C. J. How many letters have you intercepted? Have you intercepted twenty?

Dugdale. Yes, a hundred, my Lord. Mr. Harcourt was the first that gave intelligence into the country (as I know of) of the death of sir Edmundbury Godfrey.

Sir Cr. Levinz. Tell when it was given, and how.

Dugdale. I have made it out already upon oath, and I have witnesses to prove it.

Sir Cr. Levinz. Pray, Sir, tell it now.

Dugdale. It was directed to Mr. Ewers, and it was three days before he was found, for it was received on the Monday, and he, as it is proved, was killed on the Saturday. The words were these, This very night sir Edmundbury Godfrey is dispatched. And I very much rejected Mr. Ewers for this action, and then told him, This will overthrow the design, or I will be hanged.

L. C. J. What day did you receive the letter?

Dugdale. I have proved I received it on a Monday.

L. C. J. But pray what date did it bear?

Dugdale. That letter must come by Saturday post, for it is said 'This night sir Edmundbury Godfrey is dispatched.'

L. C. J. He did not name any body, by whom?

Dugdale. No, but it said he was killed, and we knew by whom.

Mr. Just. Pemberton. And are you sure that was Mr. Harcourt's letter?

Dugdale. Yes; for he did usually sign his letters with two letters W. H. which stood either for Harcourt or Harrison.

Mr. Belwood. Did you acquaint any body with this, or did you conceal it?

Dugdale. I did go to an alehouse that is hard by my Lord's the next day, which was Tuesday, and there I asked, If they did not hear some news of a knight's being killed at London? And I have an evidence here, if your lordship please, I will call him, who, I desire, may testify the same thing.

L. C. J. Yes, by all means.

Sir Cr. Levinz. Mr. Dugdale, Pray, will you give us some more account of the letter, that came from Mr. Whitebread to Mr. Ewers.

Dugdale. I remember one particularly, but I cannot tell what number I have seen.

Sir Cr. Levinz. Did you see more than that one?

Dugdale. I particularly remember that.

L. C. J. What was that one particularly?

Harcourt. My Lord, I desire to ask him one question, When was the last time that you received any letters from me?

Dugdale. The last I received from you (to the best of my remembrance) was that about sir E. Godfrey, and it was in October.

Harcourt. I have not writ to that person this year and a half.

L. C. J. Let that man be called that proves this business of the death of sir Edmundbury, and the talk of it.

Dugdale. Mr. Harcourt, you know very well, that when Mr. Ireland was last in the country last year, you were to send him the answers that came by letters from St. Omers, and those were sent down to my lord Aston's, and I saw them, eight of those letters, I am sure. And I can prove it by one circumstance; two of them came relating to Mr. Edward Aston's death, from Paris; I intercepted them, and talking of it, that I could conjure, and tell the death of Mr. Edward Aston, before any of his friends knew of it. And Mr. Ireland writ a chiding letter about it, that he had not heard it sooner, and you sent down word, That you did write those letters, and yet you say you have not written to me of a twelvemonth, or more.

Harcourt. This gentleman does pretend to know my hand, and it is true, I have writ several letters for Mr. Ewers, and directed to him; but as to this time he speaks of, I have left off writing for divers years. He pretends to know me, and yet this gentleman before the Committee of Commons in parliament, which was yesterday was five weeks, as well as he knew my hand, came and said I was a gentleman he did not know. He came also to entrap me at the Gate-house before those gentlemen of the Committee of the House of Commons; but because he said he knew my hand so very well, and testifies those expressions in the letter, I must say this, I never did write any such letter, nor did I ever in my life seem to approve of any man's death or murder. But the thing is this, he pretends to know my hand and to prove it, the gentlemen desired me to write my own hand and my name, and he in the mean time did withdraw, and three of them did write their names, and afterwards they called him in again, and asked him which was Harcourt's hand, and he was not able to say which it was.

L. C. J. You write more hands, as well as have more names, and can counterfeit your hands, as well as change your names.

Mr. Just. Pemberton. You speak before your time, and your bare word goes for nothing.

L. C. J. But, Mr. Dugdale, where is your witness?

Harcourt. I do not know any thing of this.

L. C. J. But if he calls up a witness, of whom you can have no suspicion, that can testify, that at this time Mr. Dugdale spoke about the death of sir E. Godfrey, what will you say to that?

Harcourt. I believe there is no such thing at all.

Sir Cr. Levinz. My Lord, here is Mr.

Chetwyn, pray swear him. (Which was done.)

L. C. J. Mr. Chetwyn, Do you remember that Mr. Dugdale came to you any time last summer, and what time, and what discourse had you?

Chetwyn. My Lord, if your lordship please, I was most part of the summer in the country, I came into Staffordshire about the 29th of August. My Lord, there is a gentleman, one Mr. Sanbidge, that is a kinsman of my lord Aston's, that was very well acquainted with the family where I was, which was half a mile off my Lord's, and used to come and play with me at tables. My Lord, at that very time in October he came to me, and there says he, do you hear nothing of a justice of peace in Westminster, where you live, that is killed? Or to that effect. No, said I, and I had letters yesterday, and heard nothing of it. Saith he, I was this morning at Elds, and there a girl of the house told me, Mr. Dugdale had been there, and reported that there was a justice of peace of Westminster was killed; but who he should be I never heard named, and on Saturday following my letters brought it down to me.

L. C. J. When was it that this was spoken?

Chetwyn. It was Tuesday morning, (as I remember) and that by a very good circumstance, I went that day for Litchfield, and the Saturday after the news came to me to Litchfield, that sir Edmundbury was found murdered.

L. C. J. The jury would do well to observe this in point of time. Sir E. Godfrey was killed, as it was since proved, on Saturday, but on Monday he was missed, on Thursday he was found, and on Saturday the news was spread all over the country. Now, said he, the Tuesday before the news came down, which must be the Tuesday after the Saturday he was killed, one comes from the alehouse and asks, Do you not hear of a justice of peace at Westminster that is killed; for the wench at yonder alehouse says, Mr. Dugdale was here this morning and reported such a one was killed. So that it is most notorious, as any thing in the world can be, that this thing was known to them, before any of us knew what was become of him.

Mr. Just. Pemberton. How do you further know it to be upon Tuesday?

Chetwyn. I know it to be that Tuesday, my Lord, very well, for we all went about such a time to my cousin's mother, to stay a week there, and after I returned back, and on Tuesday the 15th of October I went to the race to Litchfield, and stayed till Saturday there, and came thence to London, and was here the Wednesday, being the first day of the term. But I remember particularly the first information Mr. Dugdale gave in the country, came to my cousin's hands from the mayor of Stafford, and I happened to see him, I think it was Christmas day. It came inclosed in a letter. Upon the apprehension of Mr. Dugdale, I remember I met him, and he told me of it, and said he, the parliament did not sit that day: So he went to acquaint the Lord Lieutenant of

the county, that is, the duke of Monmouth, with it, who carried it to the king. But when Mr. Dugdale was sent for, my cousin went down, and writ me a good character of him. As soon as ever Dugdale came to town, before he went to be examined by the council, as I remember I went with some gentlemen to speak with him, and said I to him, 'Can you say any thing about sir E. Godfrey's death?' Saith he, I remember such a letter came at such a time from Father Harcourt to Father Ewers, wherein were these words; This night sir E. Godfrey is dispatched. And said he, I remember I asked the question of Ewers, Is not this likely to spoil all the design? No, said he, he was a man that prosecuted persons that went to debauched houses, and it will be said to be some of them that did revenge themselves of him; or words to the same effect. This made me recollect the time I had the discourse with the gentlemen in the country. I happened to be out of town when the murderers of sir E. Godfrey were tried; as soon as I came to town, and found that the murderers of sir Edmundbury Godfrey were condemned, I was at a coffee-house enquiring how it was managed; some I found slighted it, others did not know what to make of it. Was not Mr. Dugdale there? said I. No, said they. Then I presume, said I, that a very material evidence was omitted. Upon this I went to Mr. Dugdale's chamber, and there, said I to him, What was the reason you were not produced as an evidence, at the trial of sir E. Godfrey's murderers? Said I, you told such a thing, and I hope you told truth, for I do not hear that you have ever contradicted it, that you saw a letter about the Monday after he was murdered. In my judgment it is very material, if you have sworn it, if your deposition be true, or else you did ill to report it. Said I, Pray let me see the copy of your deposition sworn before the council. He shewed it me, and there was not a syllable of it, that I could see, but afterwards appeared to be there.

L. C. J. That is not very material, if the thing itself be true.

Chetryn. But it is not being there, made me remember it.

Recorder. Pray set up Mr. Dugdale again. Now pray tell the contents of Mr. Whitebread's letter.

Dugdale. The contents of it was, to encourage Mr. Ewers to go on, to be careful whom he did intrust, that they should be such fellows as were desperate, hardy, courageous, and stout, or to that purpose; it was no matter whether they were gentlemen or no, so they were but courageous and desperate.

Just. Atkins. What were they to do?

Dugdale. For the killing of the king.

L. C. J. Was that in Whitebread's letter?

Dugdale. Mr. Whitebread did write those words, they were in the letter.

Whitebread. Was that very word in the letter, for killing the king?

Dugdale. It was, that they should be stout and courageous persons,

L. C. J. For what end?

Dugdale. It was for taking away the king's life.

L. C. J. I ask you, recollect yourself, was it by way of description of some design or plot, that those persons were to be chosen out? Or was it in downright words, 'for killing the king?'

Dugdale. To the best of my remembrance they were those very words.

L. C. J. It was much he would write such words in a letter.

Dugdale. I was one that was made choice of about it.

Justice Pemberton. Were you to be one?

Dugdale. Yes, I was.

Justice Pemberton. Mr. Gavan, you know who it was you entertained for this business, and you could trust them.

L. C. J. How were these letters conveyed? Were they sent by the ordinary post?

Dugdale. Yes, they were, and they trusted me with them, because being directed to me, if they were intercepted, I should be hanged, and they saved.

Justice Pemberton. Upon these letters, what were you entertained to do?

Dugdale. My Lord, I was entertained before by my Lord Stafford and Mr. Ewers.

Justice Pemberton. What to do?

Dugdale. To kill the king.

Whitebread. Pray, Sir, how came you to see these letters? Did you intercept them, and read them yourself?

Dugdale. I did intercept them, and open them of my own self.

Whitebread. Pray take notice of what he says, gentlemen.

Recorder. The jury do take notice.

L. C. Baron. Do you know any thing against Mr. Turner and Mr. Fenwick?

Dugdale. Mr. Ewers hath told me by word of mouth, that he was to carry on the design in Worcester-shire, but I saw him with Mr. Ewers and Lewson, and others, when he was going to his brother Turner's then in Nottinghamshire, and they did consult and agree there in my hearing, to all that I have said before.

Turner. What did I assent to?

Dugdale. Why this design, you and Mr. Ewers and Lewson, and others agreed to what I said before.

Turner. Where was this?

Dugdale. At Tixall and other places.

Turner. In what month?

Dugdale. It was about two years ago, about the beginning of the business.

Turner. Where was it?

Dugdale. It was at Mr. Ewers's chamber. You know me very well.

Turner. I have not been in Staffordshire these four years.

L. C. J. Why don't you know him, Mr. Turner?

Turner. I do know I have been there a matter of three or four times in my whole life, but have not been there these four years.

Justice Windham. Have you any thing to say against Fenwick?

Dugdale. I don't know that I ever saw him before.

Recorder. But he speaks fully as to the other four.

Sir Cr. Levinz. Call Mr. Prance, and swear him. Which was done.

Sir Cr. Levinz. Come on, Mr. Prance. What can you say to Mr. Fenwick or any of the others?

Prance. Mr. Harcourt, I made him an image of our Lady about a year ago, and when I was receiving money for it, (it was to be sent into Maryland) you told me then that there was a design of killing the king.

L. C. J. Who told you?

Prance. Mr. Harcourt, that very time.

Sir Cr. Levinz. When was it?

Prance. It was when it was sent to Maryland, in the Portugal's country: you know it well, Mr. Harcourt.

Harcourt. I know nothing of it.

Sir Cr. Levinz. Pray let him alone, till we have done with him.

Harcourt. I desire but to know when it was.

Prance. When I received the money for the picture, it was a year ago.

Sir Cr. Levinz. What say you to Mr. Fenwick?

Prance. I was in Mr. Ireland's chamber in Russel-street, and there was Ireland, Fenwick, and Grove, and they were talking of 50,000 men that should be raised, and be in readiness to carry on the catholic cause, and settle the catholic religion. I asked who should govern them? They told me, my lord Bellasis, my lord Powis, and my lord Arundel.

L. C. J. Who told you so?

Prance. Mr. Fenwick.

L. C. J. How long ago?

Prance. About a fortnight Michaelmas last. Mr. Grove came to me two or three days afterwards, to buy two or three silver spoons to give away at a christening, and then I asked him, what office he should be in? He told me, he could not tell: But he told me, my lord Arundel, my lord Bellasis, my lord Petre, and my lord Powis had commissions for these things to give.

L. C. J. This Grove told you.

Prance. Yes, my lord.

L. C. J. But what did Fenwick tell you?

Prance. He told me who were to govern the army, my lord Bellasis, my lord Powis, and my lord Arundel of Wardour.

Sir Cr. Levinz. Had he any discourse with you about trade?

Prance. He said, I should not fear trade, I should have church work enough.

Mr. Belwood. Pray speak that again.

Prance. I asked him, what shall we poor tradesmen do, if we have civil wars in England? O, said he, you need not fear having trade enough, you shall have church work, enough, to make images, chalices, and crucifixes, and vases, and such like things.

Mr. Belwood. If you will ask Mr. Prance any questions, pray do.

Fenwick. My lord, I am certain of this, that he never saw me at Mr. Ireland's chamber, in that company, nor did I ever speak of any such thing before him.

Prance. Mr. Ireland and he have been sitting together whole hours and consulting about some concern or other, mischief no doubt. My lord, I went to Mr. Fenwick's chamber, after my ghostly father was dead.

L. C. J. What was his name?

Prance. Father James. And he importuned me to come to confession to him; I told him, I was not yet very well satisfied who I should go to, to be my ghostly father.

Fenwick. When was this Mr. Prance?

Prance. Before Michaelmas, about a week or eight days.

L. C. J. Did not you know him, Mr. Fenwick?

Fenwick. Who, father James? yes, very well, and I know Mr. Prance, but not upon that account.

Prance. And I brought you a bell home, for the altar, at the same time.

Justice Pemberton. Who was it importuned you to have him for your confessor?

Prance. It was Mr. Fenwick; and I told him, when I did come to confession, I would come to him. And he enjoined me, once or twice, to say nothing of what I had heard said.

L. C. J. If Harcourt have any questions to ask him, let him.

Harcourt. Can you say that ever I spoke to you about any such business?

Prance. Yes, as sure as I stand in this place, and you in that. And one Thompson came with you, when you paid me for four candlesticks.

L. C. J. Do you know Mr. Thompson?

Harcourt. Yes, I do.

L. C. J. Had you any candlesticks from Mr. Prance?

Harcourt. I had a great while ago.

Prance. He paid me 44*l.* that time for them.

Recorder. Call Mr. Bedlow. Who was sworn.

Sir Cr. Levinz. What can you say, as to any of the prisoners at the bar?

L. C. J. What can you say, as to Mr. Whitebread and Mr. Fenwick?

Bedlow. My lord, I do not question, but Mr. Whitebread and Mr. Fenwick will object against me, my refusing to give in evidence against them at the former trial; but I think that there are some upon your honourable bench, that can make my apology for not giving in all my evidence against them then; for it was not convenient, because it would have stopped a design I was then upon, and could not get off from, that was about Mr. Reading, whom I was then treating with, for Mr. Whitebread and Mr. Fenwick, as well as the lords in the Tower, and he told me; that he would depend upon my confidence and justice as to the lords, according as I did deal with these men; if I brought them off, he would believe, and the lords in the Tower would believe, that I would bring them off too. So that I did make an apology then in the

Court, that I could not safely say all that I had to say at that time. Some of the justices, I believe, do remember it, and in that which I did give in against them, I did not say all, nor half, that I could have said.

Whitebread. Did you say any thing of that at the last trial?

Bedlow. I will answer that matter to the Court, but it is the measure they always take to intrap the witnesses; for now I am out of a country that will give me an indulgence and dispensation to speak exactly to a day, or an hour, as their St. Omer's witnesses have.

L. C. J. But what say you now to them?

Bedlow. I did then say, that I did see Mr. Whitebread, and he hath been in several consultations for the carrying on of the Plot; but then I did it with a caution, that I never heard of Mr. Whitebread, that he was so very much concerned; and indeed I had no reason to say so, because I heard him myself, and could not well speak from the hearsay of another. And as for Mr. Fenwick, I never heard him give in any answer, but I have seen Fenwick at the consult there.

L. C. J. Have they ever told you any thing concerning the killing of the king?

Bedlow. Whitebread told Coleman, at Mr. Harcourt's chamber, the manner of sending the four ruffians to Windsor, about September.

Harcourt. I never saw him twice in all my life before.

Mr. Belwood. Do you know of any reward those ruffians were to have?

Bedlow. Yes, I saw Harcourt take the money out of a cabinet, I think it was fourscore, or 100*l.*; the sum I do not well remember. Harcourt paid them the money, by Mr. Coleman's order, and gave the messenger a guinea from Mr. Coleman, to drink his health. Mr. Coleman was gone a little before I came in, and so I could not know that Coleman gave it, but he said so.

Sir Cr. Levinz. What was Pickering and Grove to have?

Bedlow. Grove was to have 1,500*l.* and a promise of the favour of the lords: 1,500*l.* was the sum appointed at Mr. Harcourt's chamber, and doubtless in several other places, but there I heard it from Mr. Whitebread, and Pritchard, and Le Faire, and Kaines; and Pickering was to have a number of masses, I cannot tell exactly how many, but they were so many, as at 12*d.* a mass would amount to be equal to Mr. Grove.

Mr. Belwood. Pray, sir, what was that for?

Bedlow. For killing the king. But Pickering had been disciplined before, and received a check from the superiors, because he had been negligent and slipped many opportunities. One time the flint of his pistol was loose, another time there was no powder in the pan, another time he had charged with all bullets, and no powder.

L. C. J. Did you see Harcourt deliver the guinea, for the expedition of the Windsor business?

Bedlow. Yes, my lord, as from Coleman, to drink his health.

Mr. Belwood. Pray, was either Whitebread or Fenwick knowing of the agreement, when it was spoken of?

Bedlow. I have seen Fenwick at Harcourt's and Whitebread's chamber, when it was spoken of; they were all of one opinion, they had decreed it. I never saw Whitebread but twice at Harcourt's chamber, where one time was Harcourt himself, at another time was Pritchard, and Le Faire, and others; at which time sir George Wakeman's business was spoken of, and because he would not accept the 10,000*l.* 15,000*l.* was agreed to be given him; and upon sir George's trial, I shall let you know where he had the money too, but I desire to be excused at present. I shall speak it to-morrow.

L. C. J. What did they consult there?

Bedlow. They were consulting how it should be done; and what should be done, if they did not do it. Then Ireland proposed, that the most certain way was to do it at his morning walks in Newmarket; Fenwick was to go, and with him went Conyers; I heard seven or eight of them were to go.

L. C. Baron (Montague.) What say you to Turner?

Bedlow. Of Mr. Turner, I know nothing, but what I have heard others say.

L. C. B. What say you to Gavan?

Bedlow. I know nothing of him, but only I have heard Mr. Harcourt say he hath been a great manager of this business.

L. C. J. This is nothing to the purpose, what others say.

Bedlow. Mr. Harcourt is no stranger to my bringing of packets and portmanteaus over to him, from beyond the seas.

Harcourt. He never brought but one in all his life time.

Bedlow. What, did I never bring but one packet? Have not I brought divers and divers portmanteaus?

Harcourt. You never brought a portmanteau in your life.

Bedlow. I have brought divers.

Harcourt. You know I never saw you but twice in my life, before to-day, and when I met with you at the privy council.

Bedlow. My lord, the trials have been so put off, that I could never get all my witnesses together, but I have seven or eight of my witnesses that are out of town, that would make this very clear. My lord, there was never a packet of letters that I brought over to Mr. Harcourt, but did contain in it a design of the subversion of the government; and it must be more than two packets that I have brought over; for I have brought letters from Watton, and letters from St. Omers, and letters from Bruges, and from Paris, and from Valladolid and Salamanca; and all these letters contained in them the management of this plot, how far they had proceeded beyond sea, and answers how far they had proceeded in England, from him, and to them, to and again, from time to time, in carry-

ing on the design of subverting the government, and altering the religion; wherein was given an account of the army and forces that were to be raised, both here, and beyond sea; what contributions were made, or expected, at home or abroad, all was lodged in Mr. Harcourt's hand, at leastwise an account of the greatest part. And I have been sent to Mr. Langborne with papers from Harcourt, about this affair, to register them; and of that I shall give you an account, upon Mr. Langborne's trial.

L. C. J. Well, now ask him what you will.

Whitebread. Sir, I desire to ask you one question.

Bedlow. I desire it may be asked the Court.

Whitebread. I desire to ask him whether he was a lieutenant in Flanders or no?

Bedlow. Yes, I was.

Whitebread. Of horse, or foot?

Bedlow. Of foot.

Whitebread. Take notice, there is no such officer of foot in all Flanders.

Bedlow. I was then in the regiment of the prince of Friezland.

Whitebread. There are no lieutenants in all the Flanders companies, only Captains and Alfara's.

Bedlow. My lord, I had a commission, and I have a commission to be so, and I desire I may send for it.

L. C. J. It is no very material thing; as soon as it comes, they shall see your commission.

Harcourt. You say you have had papers from me, and been very familiar with me: Pray, how can this be, when, as I did declare before the lords in council, that was the third time I ever saw your face? The first time he came to me, he brought letters from Dunkirk, five years ago; when I opened them I found them directed to other persons, and to them I sent them, my name being only used in the outside cover; and it seems upon that confidence that he had in me at that time, not long after, he came to my chamber, and told me, He had lately become a Roman Catholic, and by that means had lost his friends, and that he then was in want, and, unless I did assist him, it would be very hard with him; though his father deserted him, yet he had some friends, whom he expected would do something for him, and then I will repay you.

L. C. J. When was this?

Harcourt. The second time that I ever saw him in my life, and this is four years since. Then said I, what will serve your turn? He told me 20s. which I lent to him; and I never saw his face afterwards, till I met him at the privy-council; and therefore, how should a man believe a word he says?

L. C. J. But how shall a man know, that what you say is true?

Bedlow. I will make it appear, at the trial of the lords, that I sent to him for 10*l.* and had it. I cannot now prove it, without bringing some witnesses that I have behind a curtain, and I will not discover them till then, they shall not know who they are.

Mr. Just. Windham. Will you ask him any questions?

Bedlow. My lord, I have not said the one-hundredth part of what I can say, honestly, and like a Christian, of Mr. Harcourt.

Harcourt. You may say what you will, but you will not speak truth.

Bedlow. Mr. Harcourt went with me to Mr. Coleman's, when I carried over the consult. There was the greatest part of the design, in that which I was to carry over to St. Omers, and that consult did I fetch from Mr. Coleman, and Mr. Harcourt was with me, and I had thanks from Mr. Coleman for my fidelity in the business, and expedition in bringing and carrying the packets. I was recommended to my lord Arundel by Mr. Harcourt, and was promised, by his lordship, all the friendship and favour imaginable, when the times were turned.

L. C. J. Why here, you see, he names several places and times, wherein he met with you.

Harcourt. Not one word of all this is true.

Bedlow. I desire you to ask Mr. Harcourt, my lord, Whether he was not in August, or Sept. last, in company with me and Le Faire?

Harcourt. Le Faire! I know no Le Faire.

Bedlow. Le Ferre, then.

Harcourt. Le Fevre, I believe I did see at that time, but not since.

Bedlow. Pritchard did recommend the care of me to him.

L. C. J. There, he names another time, when you and Pritchard were there together.

Bedlow. Pritchard was my confident, and my great friend, and told them, This is a person whose fidelity you have tried, in carrying over such and such letters, and therefore you may very well trust him, and take care of him: And so he recommended me, as one that was really fit to understand the bottom of the design. And Pritchard did tell me, before them, that the king's death was intended as a part of it; and he sent again another time to Mr. Harcourt, but it was about no material business; and Harcourt gave a Bill of Exchange to carry to what citizen I do not know, but to sir George Wakeman, to have 2,000*l.* by whose orders, as they said, your lordship shall know upon his trial, but I saw Harcourt give him the Bill of Exchange.

Mr. Just. Dolben. Who gave the Bill?

Bedlow. It was Harcourt, my lord.

Harcourt. Who was by, when this Bill was given?

Bedlow. Kaines, and sir William Anderson.

Harcourt. How was this Bill drawn?

Bedlow. It was drawn upon a citizen, and left in your hands.

Harcourt. I desire he may name the citizen, and, if he can, make it out; if he do, it will appear upon the merchant's books.

Bedlow. Sir George Wakeman received a Bill of Exchange from Mr. Harcourt, and he was told, Here is a Bill of Exchange for 2,000*l.* as part of a greater sum; to which sir George Wakeman answered, That 15,000*l.* was a small reward for the settling of religion, and

preserving of the three kingdoms from ruin; but if it were not for such a woman, he would never undertake it, but for her he would do any thing. And after he had given sir George Wakeman the Bill, sir George Wakeman opened it, and read it, but I did not read the name that was to it.

Fenwick. My Lord, it seems not sufficient proof, that he saw a bill of exchange, unless he says from whom, and to whom, that it may be proved by the books, or otherwise.

L. C. J. You say well, Mr. Fenwick, if so be he had been the person concerned in the bill, that he were either one that drew it, or was to receive the money, then it was strange that he should not know the parties to it: but I must tell you, where he was not one nor the other, it was a collateral matter. Do people take notice of every particular bill of exchange that they see, which they are neither to pay nor receive?

Fenwick. But what reason does he give your lordship, or the jury, to believe there were such a bill, unless he does produce either the bill, or the person that paid it?

Bedlow. I did only see the bill out of Mr. Harcourt's hand, but it was read there only by sir George Wakeman.

L. C. J. Is it a pin matter, whether there was such a bill or no, or whether he had mentioned it or no?

Fenwick. But seeing he hath mentioned it, I say there is nothing of proof of it, but only his bare word.

L. C. J. Yes; there is his oath.

Sir Cr. Levinz. And I desire the jury to take notice how unreasonable a thing it is that you ask. You would have Mr. Bedlow produce the bill of exchange, that was given to sir George Wakeman to receive the money.

Bedlow. I have only one word more. Sir George Wakeman received the bill of exchange from Mr. Harcourt, read it himself, folded it up, and went and received the money; and that the court will be pleased to see my commission, for now I have it here.

Which was read by my Lord Chief Justice North, and several others.

Sir Cr. Levinz. We have only this one matter to trouble your lordship and the jury with. You perceive that hath been given, that the main matter begins at the consult of the 24th of April, when the consult was; now to fortify this evidence, we are now to produce a letter, that was written from one Petre, at St. Omers, a Jesuit, wherein is mention made, that he was to give notice, Mr. Whitebread had appointed a general meeting, just at that time, in London, at which they were to consult of very great matters; and they were to be very private in their coming to, and appearing about the town. And this letter was taken amongst Mr. Harcourt's papers, and to prove it, we call sir Thomas Doleman. [Who was sworn.]

Sir C. Levinz. Pray, what can you say where this letter was found?

Sir Thomas Doleman. It was found amongst Mr. Harcourt's papers, in a bag of his papers that was committed to my care to search.

L. C. J. Can you tell me what day you found it?

Sir Thomas Doleman. It was a matter of six or seven days after Mr. Oates had given his information of this plot to the council.

Harcourt. What paper is it?

Mr. Justice Atkins. Hear it first.

L. C. J. It is a letter found amongst your papers.

Harcourt. Who is it from?

L. C. J. It is from one Mr. Petre, do you know such a one?

Cl. of the Cr. It is subscribed, E. P.

Harcourt. Yes, my Lord, I do; I will deny nothing of the truth.

Then the letter was read, *in hac verba*,

'Honoured Dear Sir,

'I have but time to convey these following particulars to you. First I am to give you notice, that it hath seemed fitting to our master consult, prov. Sec. to fix the 21st of April next, *Stilo veteri*, for the meeting, at London, of our congregation; on which day, all those that have a suffrage, are to be present there, that they may be ready to give a beginning to the same on the 24th, which is the next day after St. George's day: you are warned to have *jus suffragii*, and therefore, if your occasions should not permit you to be present, you are to signify as much, to the end, others in their ranks, be ordered to supply your absence. Every one is minded, also, not to hasten to London long before the time appointed, nor to appear much about the town, till the meeting be over, lest occasion should be given to suspect the design. Finally, secrecy, as to the time and place, is much recommended to all those that receive summons, as it will appear of its own nature necessary. *Tertio pro Domino Solano Disco. Benefact. Prov. Iuniensis.*

'I am straightened for time, that I can only assure you, I shall be much glad of obliging you any ways. Sir, your servant, EDWARD PETRE.'

L. C. J. Come, now, Mr. Harcourt, will you expound this letter to me, that speaks of this meeting and privacy?

Harcourt. Yes, my Lord; though it was not my Letter, yet I will tell you what the meaning of it was. That letter was writ to one, who had *jus suffragii*, a right to come and vote in our congregation, which, according to the constitution and orders of our society, is within the compass of three years, where they meet about the particular affairs of the society.

L. C. J. What was it about?

Harcourt. It was about choosing an officer; choosing a procurator to send to Rome; that was the chief point: and secrecy was a thing that was recommended to every one, as it was fit it should be, we living in a country where

every one's eye was upon us, and we were an eye-sore to them, we ought to be cautious of meeting in such numbers, as might give an offence; and this was the only thing indeed.

L. C. J. Look you, Mr. Harcourt, you say well, but we are not to be altogether disciples of yours, so as to have no sense of our own, and to be imposed upon so weakly as this. Here is the thing, says the letter, I would not have you come too soon to London, nor appear too much in public, for fear of discovering a design which requires secrecy in its own nature. What, was that your design of choosing a procurator? Tell me but one thing that can bear the name of a design, which must have that secrecy in it, that people must not appear much about town, and that in its own nature requires such a thing.

Whitebread. My lord, the thing itself is evident; what was the design.

L. C. J. Come, Mr. Whitebread, you will do it better.

Whitebread. It is evident it was a design to choose an officer.

L. C. J. Why, good Mr. Whitebread, do any write after that manner? Were you to write to any one, or ask the jury, if they were to choose some collector for the receipt of some charitable money that should be employed for the relief of protestants in France: Do you think any man would say, Do not appear much in London before hand, nor come too soon, for fear of discovering the design, which in its own nature requires secrecy: will this endure the name of design?

Whitebread. First, it is a very hard thing to bring so many mens lives in danger, merely upon the interpretation of a word, which may as properly signify one thing as another. Is it not proper for me to say, I have a design to dine with such a man to-morrow, or the like?

L. C. J. It is true now, but hearken—

Whitebread. But that was the thing designed, to have a congregation for the choosing of an officer, and it was, I think, very properly said; and that it should be kept secret, was as prudential a thing as possibly could be. Was it not proper here, because our profession was not publicly permitted in this kingdom; and therefore that was the reason why secrecy was enjoined? and this, upon my salvation, was all that ever was intended or thought.

L. C. J. North. This now is the interpretation you put upon the letter, but we understand by the witnesses what was done at that meeting.

L. C. J. Look you, Mr. Whitebread, this letter, without question, hath been well studied by you all; and it requires it mightily.

Whitebread. It needs none.

L. C. J. This is not the natural exposition of the words of the letter, that you give, but a forced one; for first, there is a difference between saying, I do design to dine to-day, though it be a usual matter, but it is another thing, when I call a thing by the name of a design, accompanied with a requiring of secrecy in its

own nature, and when I give advice that they must not appear in town too soon, nor too much about the town, for fear of discovering the design, which in its own nature requires secrecy: Must all this amount but to the choosing of an officer? You will never make one papist of all this company, if you make no better work of it.

Whitebread. My lord, I humbly desire your lordship would not strain a word which may be well enough said, whether it be properly said or no.

L. C. J. It is not one word alone, but it is the whole sense.

Whitebread. It is evident, there was just cause of secrecy, because of our profession.

L. C. J. Mr. Whitebread, It is not one word that is relied upon, for the business is pursued. It is not said, pray meet at such a time, but, Be careful you do not discover the design; if it had been only said so, it would have been a strain, to have made this construction of a single word, to make this that design; but as it is here, we make no such construction; it had been hard indeed to put that meaning upon it as you do, even then, for it is seldom so used, for no man writes after that manner; but, when it follows in a continued sense of so many lines, 'be sure you meet on the 24th of April, the day after St. George's day, but come not too soon to town, nor appear too much about the town for fear of discovering the design, which you know in its own nature does require secrecy;' can we make any such interpretation of it? If you have no better arguments than these, you must have people lose their understandings, or have a very blind obedience to yours, or it will never down. Ay; come, Mr. Gavan, how do you say is the meaning of this?

Gavan. For my part, I will assure your lordship, I was not there; but this is known to all the christian world, that there is such a meeting in Spain, France, Germany, &c. that wherever the Jesuits are, once in three years they have a meeting among themselves, for the settling of their affairs. Indeed the words have given your lordship an occasion to raise a difficulty, what the word 'design' should mean? which I do give this answer to: Your lordship's difficulty is, That the word 'design,' here, should be made use of to send one poor Jesuit to Rome. My lord, do but mark the end of the congregation, and you will say to us, that we might well use that word, because the word may import some great business of concernment; now what business of greater concernment for poor religious men to meet together about, than those things that may promote their better state in another world, and the regulation of what is amiss in their order. My lord, upon my conscience and salvation, this was the end of the congregation, to meet and see what is amiss in their order, who do their duties, and who not, who are irregular in their offices, and whose office is vacant, and to be supplied.

L. C. J. But must nobody come to town, nor appear too much about the town, for this?

Gavan. Therefore, my lord, as to the word design, it concerning the whole spiritual good of the whole body of the English Jesuits, it might well be used for the consultation of that body about all their good, temporal and spiritual, which was all concerned in it.

L. C. J. These are a many words, but to no purpose.

Gavan. Now, my lord, for the second thing that you object, your lordship remembers very well, that the continuation of the sense in so many lines, made the thing the more suspicious, that more was intended by it than so: Now this I shall be able to answer, if there can be given a particular reason why we should add that word of secrecy, to the other of design; having answered to the one part, we now give an answer to the other, and so to the whole. Now, my lord, because of the time, the parliament was then sitting, and that we might not offend the king and all civil magistrates (whom we honour from our hearts and souls), that word was used that it might be kept secret.

L. C. J. It was not out of love to the parliament, it was the nature of the thing required it, nor was it out of fear you had of them. I did never find, though you are as good at it as ever any I met with (for I never met with a priest that had much more understanding); but really you do not answer me. You are so far from scholars, and arguing like such, that you do not maintain the matter with common and rational understanding, but only heap up so many vain words, (like a rope of sand put together) which hath no natural coherence; for you cannot possibly make this reasonable, that people should have so much caution, that they should not come too long to town beforehand.

Gavan. Not to be taken notice of.

L. C. J. Not to appear in town when they come.

Gavan. Not to be taken notice of.

L. C. J. I say so, you cannot tell why all these cautions should be used, merely for choosing an officer.

Gavan. My lord, our lives depended upon it, if we were taken, being such men as we are.

L. C. J. You can make nothing of it, and you will find it an hard task to answer it; for if half the evidence that hath been given were not given, yet this letter of your own, which cannot be denied, is an unanswerable proof. It does monstrously confirm Mr. Oates's testimony to be undeniable, as to the meeting at the consult; for he, four or five days beforehand, comes and tells the council, the very day which, five or six days after, this letter makes good, which is found in Harcourt's custody. Then there was a consultation upon the day, the very day that Mr. Oates says, and what he calls a consultation, your own letter says is a design.

Gavan. It was a design of a congregation.

YOL. VII.

L. C. J. What sense is there in that? Will any man in England, or did any man in England ever say, take heed of discovering our design of going to church, or choosing a collector?

Gavan. There is reason for the one, and reason for the other too.

L. C. J. I would appeal to yourselves, and all here present, what the natural import of such a letter is, whether it does not carry a matter more than ordinary, whether its natural intendment doth not look at that? And the next thing is this: does any man write plainer than this, when they write of a thing that is of such a nature? Is not the danger too great to hazard that fact, which they call the nature of the thing, to intrust it in a letter? Is it not vain to put that in a letter, in words at length, which they to whom it is writ, know what the thing means? And if it should be further known than they would have it, the thing could never be done: and if you consider the person that writes, a jesuit, or a priest: are priests ever plain? And will you expect plainness here, when, in things of ten thousand times less moment, they do not write plainer? Is it not known, you have not a proselyte, that you do not keep under obligations as close as your confessions are? Have you not taken here, as it is sworn, a Sacrament of Secrecy? Is there a woman that you convert, but in the dark? Or a Papist made out of a priest's hole? Are not all your deeds under-ground? And do you work with any light, but that of a dark-lantern? This is plain, unless you give a better answer to this letter, the letter will hang about your necks.

L. C. J. North. Mr. Oates will tell you what the design was.

Mr. Justice *Ellis.* He can tell you what it was.

L. C. J. The letter speaks itself.

Oates. Mr. Gavan, and they, now, tell your lordship what this consult was for, but they denied this consult at first, when there was but one man to justify it. I justified it before Mr. Fenwick, who denied it at the council-board, though now they pawn their salvation upon the justification of it.

Fenwick. I never denied that there.

L. C. J. Come, have they any thing to say for themselves?

Bedlow. My lord, whereas, as Mr. Gavan says, that in obedience to the king and parliament they would have their consultations secret, and that they always desired to conceal themselves then; the time of sessions of parliament was the only time that I and others have been employed to fetch over more Jesuits than at any other particular time.

Oates. And there are more of them then in the Court of Requests, and in the Lobbies, bare-faced, and threatening the Protestants, than at any other time.

Bedlow. We used to fetch them against the parliament always; they were in less danger then, than at other times.

2 A

L. C. J. You could give a very good interpretation of the letter, I suppose, that Mr. Dugdale speaks of, that came from Whitebread, that he should be sure to entertain such as were hardy stout fellows; I suppose you can make all this to signify nothing more than a design for a game at cudgels.

Sir Cr. Levinz. If your lordship please, we must desire one letter more may be read. Your lordship hath been told of commissions for raising an army, here is a touch of them mentioned in this letter, found amongst Mr. Harcourt's letters too.

L. C. J. Look you, Mr. Harcourt, you had best attend; here is another letter found amongst your papers, concerning some commissions. You look ill to your letters; you are to blame, indeed, Mr. Harcourt.

Sir Cr. Levinz. Pray, sir Thomas Doleman, look upon that paper, and tell us how you came by it.

Sir T. Doleman. This letter in my hand I found amongst Mr. Harcourt's papers, about some two days after I found that other that was read before. Having heard Mr. Oates give in his information to the council, that there were several commissions given out to several persons, and finding some doubtful clauses and expressions in the letter, I did present this letter to the council, and made a mark upon it, 'enquire what is meant by the word 'patents.'

L. C. J. Pray let it be read, because we shall desire a little more of their interpretation.

Cl. of the Cr. It is signed Christopher Anderton, Hilton, February the 5th, 1667-8.

Oates. Hilton, that is Rome.

L. C. J. Mr. Harcourt, you understand, that by Hilton is meant Rome?

Harcourt. Yes, my lord, I do.

L. C. J. Well, then go on, and read it.

Cl. of Cr. 'Worthy Sir, I know not from whence it proceeds, but I perceive that both your letters and mine have had fortune by the way, for my correspondents with you complain, they hear not from me; whereas I write constantly intire pacquets; and since the bills I received from yourself, for sir William Goring and for Mr. Ireland, from Mr. Shelly, I have not had one letter, but what I received this week, which, in part, made recompence for the former, for it brought me three of yours and one of Mr. Ireland's, for which I render you many humble thanks, and acknowledge the 15*l.* from my lord Castlemain, though Mr. Ireland made no mention of it in his. We are all here very glad of the promotion of Mr. Thomas Harcourt. When I writ that the patents were sent, although I guess for whom they were, yet I knew not for certain, because our patrons do not use to discover things or resolutions till they know they have effect. And therefore in these kind of matters I dare not be too hasty, lest some might say, A fool's bolt is soon shot.'

L. C. J. What is the meaning of these patents?

Fenwick. This gentleman will tell you, my lord.

Whitebread. My lord, they were the patent for my being provincial.

L. C. J. How many patents had you?

Whitebread. But one, my lord.

L. C. J. Is that patents?

Whitebread. *Litera Patentes*.

L. C. J. Is it patent or patents?

Cl. of Cr. Patents.

L. C. J. Read those words again.

Cl. of Cr. 'We are all here very glad at the promotion of Mr. Thomas Harcourt. When I writ that the patents were sent, although I guess for whom they were, yet I knew not for certain, because our patrons do not use to discover things or resolutions, till they know they have effect.'

L. C. J. Now you have not interpreted well this, neither.

Sir Cr. Levinz. It is said, 'I knew not for certain who (they) were for;' but to make it clear, I would desire Mr. Whitebread to answer me one question, How long is it, Sir, since you were made provincial?

Whitebread. The 14th of January was twelve-month.

Sir Cr. Levinz. And this was dated the 5th of February, which was after your commission.

Whitebread. That may be, and they not know till then.

L. C. J. And so you expound those latter words of the letter, That the resolution of making you provincial was not discovered till the effect was known.

Whitebread. Because it is not known, whether the person that is nominated might not be excepted against: and it is *Litera Patentes*.

L. C. J. But here is but one person to answer the word Patents, and there should be more than one man.

Whitebread. Every patent is called *Litera Patentes*, though it be but for one person.

Recorder. They were in great doubt that you would refuse the place, I warrant.

Oates. He is bound on pain of damnation not to disobey his superiors; if they choose him to a place, he must take it upon him.

Whitebread. It is not the first, second, or hundredth time that one hath been appointed by the superior to a place, and hath refused it; and if I had known the hundredth part of what I do now, of the trouble of the place, I would never have accepted it.

Recorder. Ay, if you had known the difficulty of this design, you would never have engaged in it, especially if you had known what is come to pass.

Whitebread. No, Sir, I never had a hand in any such thing in all my life: this is *coram Deo* that I now speak, and as I am to appear before the great tribunal at the day of judgment, I know nothing of all this matter.

Oates. My lord, these patents, of which this letter makes mention, a great many of them came down in the months of April and May before.

L. C. J. Methinks he interprets them plainer than you do.

L. C. Baron. Now what have you to say every one of you for yourselves? Make your defence.

L. C. J. Mr. Whitebread, do you begin.

Oates. While the prisoners' evidence is calling in, I desire that my witnesses may be sworn.

Justice Pemberton. Mr. Oates, be quiet, there is no need of it yet, till they have made their defence.

L. C. J. But send for them, that they may be ready.

Whitebread. My lord, that which I have to say for myself is this: I thank God, my lord, I am not afraid of death; but I should be very loth to die unjustly, and I hope your lordship will consider, that every man's blood is dear to him, and is concerned for his own life to preserve it, he ought to be allowed liberty and freedom to preserve himself as much as he can. Life is a thing not to be thrown away, but charily to be looked after, and that there is such a thing as taking away men's lives by perjury, as well as by a knife or pistol; is without contradiction. Now whoever comes against a man for his life, I suppose he is to be looked upon not only by the prisoner, but also by the Jury and the Court, that he ought to be *probus testis*, and a man fit to be admitted to be a witness. Now I have something to offer, That Mr. Oates is not any such person. Your lordship was pleased to say, that he was the person who proved the design mentioned in the letter that was read. Now I hope your lordship will give me leave (and I hope I may do it without offence to this Court) to say that he is perjured in what he says.

L. C. J. You mean that his evidence is false, you may do it if you can.

Whitebread. He says he came over hither, and was here present the 24th of April with me, and I did appoint him to do such and such things, and discovered the whole business to him. Now I desire your lordship would be pleased to consider whether this were probable, and whether I had not been a very much mistaken man all this while, to trust a man with such a business, and whether I ought not rather to be sent to Bedlam than Newgate, for trusting such a man as he, whom by his own confession I never saw till that time. It is not rational that a man would trust him; and then, my lord, that this business should be discovered to him, a man that depended wholly upon us to live, and had no livelihood but what he had from us, who maintained him at St. Omers long, as well as the best man in the house.

L. C. J. Did you do it?

Whitebread. Yes, my lord, I did.

L. C. J. You should consider how in that you answer yourself.

Whitebread. I, that is, when I came to the office, and I and my predecessors. When I was superior I found him not a man fit for that purpose and design he pretended to. He was very

zealous to be entertained amongst us, and therefore I desired him to absent himself.

L. C. J. Why was he not fit to be employed among you?

Whitebread. For several reasons of our own: First of all, it was doubtful whether he was a good Catholic: For he had oftentimes maintained several propositions that were not soundly Catholic: And then secondly, he led a very idle life, and he was not found a man we were obliged to accept of, and therefore we desired him to retire. And to that purpose we furnished him, gave him a good suit of clothes, and a periwig, and 4*l.* in his purse, and he promised me to pay me again when he had sold his library, which he said he had a very good one in London; but he never did. But that I should be so strangely overseen and mad, as at the first sight of such a man as this, to trust him with such a great intrigue as this was, and to write in such a plain strange manner, and send by post to Mr. Dugdale, as your lordship did and justly might wonder at, had been a madness. It was much that any man would write so plain of such a thing. But then my lord, the chief thing is this, That I hope your lordship will give us leave to produce our witnesses to prove, that he was not from St. Omers from the 10th of December till the 23d of June following, and never lay out of the house but one night from December till June.

L. C. J. Name your witnesses.

Whitebread. I desire first Mr. Hilsley may be called.

L. C. J. Call him; but I'll tell you what is strange. You say it is wonderful that you should trust a man you had so little opinion of his abilities or fidelity; but I wonder that you should maintain him after that.

Whitebread. No, my lord, we did not.

L. C. J. You say you did.

Whitebread. No, my lord, he pretends he was here in England sent over by us, but we will prove he was not.

L. C. J. But you maintained him abroad?

Whitebread. That was before.

L. C. J. Is it so great a wonder that you should take into your confidence and consultation that man, whom for a considerable time before you had maintained abroad?

Whitebread. But, my lord, I suppose there is some difference between charitable acts to a man in want and a scholar, and trusting him with such an intrigue as this.

Fenwick. Pray, my lord, be pleased to take notice, that this man's evidence all along is, that he saw such and such letters from such and such persons. They have no evidence but just that they saw such and such letters, and how is it possible that a man who was turned away from St. Omers for his misdemeanours, that I should shew him all my letters? Now, my lord, I have had a thousand letters taken from me, not any of these letters had any thing of treason in them, or soliciting of persons to come into England; let the letters be produced, and then your lordship will see what is

in them. All the evidence that is given, comes but to this; there is but saying and swearing. I defy them all to give one probable reason to satisfy any reasonable uninterested man's judgment how this could be.

L. C. Baron. There can be no reason given why you should sign an instrument to kill the king.

L. C. J. You say there is nothing but saying and swearing, but you do not consider what you say in that matter. All the evidence and all the testimony in all trials is by swearing. A man comes and swears that he saw such a bond sealed, or heard such words spoken, this is saying and swearing; but it is that proof that we go by, and by which all mens' lives and fortunes are to be determined. But then say you, it is wonderful that since they say they saw such and such letters, they should not produce them; why? they did not belong to them: aye, but then say you, it is strange they should not find one letter in all those numerous papers that were taken that contains any traitorous matter; but, I say, it is forty times more a wonder that one should be taken, than for all the rest to be undiscovered. I suppose Mr. Harcourt, amongst those papers that he let be surprised, did not think that letter that hath been read to have been of such consequence, nor the sense of it to be so bad.

Fenwick. I dreamt no more of my apprehension, when I was taken, than the day of my death, it was so unexpected; nor what I should be accused of: I had no fear of it, no thought of it, so that I took nothing out of the way. They took 5 or 6,000*l.* bonds and bills, besides letters; methinks something of the effects of those letters might be produced, and some of the design appear. For God's sake, where are the commissions signed, and monies paid?

L. C. J. They talk of a patent. Mr. Whitebread construes it, that it is his commission; if so, does it lie in Oates or Bedlow's power to shew that commission? (this is just like that of the bill of exchange) neither does it in any of the letters.

Fenwick. Here is Mr. Hilsley, my lord.

Whitebread. My lord, we pray we may have the favour that they may be sworn.

L. C. J. North. By law they cannot.

L. C. J. In no capital case against the king can the witnesses for the prisoner be sworn; but I will say this to the Jury, that they are not sworn is because they cannot, but the Jury is to take great heed of what they say, and to be governed by it according to the credibility of the person and of the matter.

Gavan. My lord, if you please to give me leave, my lord Coke in his Institutes says expressly, That there is no positive law against it; his words are, there is not so much as *scintilla juris* against it.

L. C. J. North. We know that the constant usage and practice is so, and you cannot produce any man, that in any capital case had his witnesses sworn against the king.

L. C. J. My lord Coke says otherwise, That the evidence should be so plain that nothing could be answered to it; and therefore no evidence should be sworn against the king.

Gavan. My lord, those are the words of my lord Coke.

L. C. J. You argue against the known practice of all ages.

L. C. J. North. There was never any man, in a capital cause, sworn against the king. The common law is the custom of the kingdom, and we are bound to know it, and must be all governed by it.

Whitebread. In Mr. Ireland's Trial, p. 35, 36, he says, he came over with sir John Warner, Father Williams and Mr. Hilsley, from St. Omers.

Justice Pemberton. Nay, you must not resort to the printed trials for evidence.

Fenwick. If we can prove him perjured at any time, I hope we may.

L. C. J. Suppose upon the taking of those printed trials they mistake, shall Mr. Oates therefore be thought guilty of perjury? If you have any thing to ask of your witnesses which you can apply to the evidence given now, you may.

Fenwick. Mr. Oates, did not you yourself own that you came over with Mr. Hilsley?

Oates. Ask me any question about what I have given to-day, and if the bench think it reasonable, I will answer it.

Fenwick. My lord, he did then affirm, that he came over with these persons, in which he is forsworn.

L. C. J. He is not convicted of perjury, and therefore that must not be urged.

Fenwick. My lord, we will prove by witnesses that were at the trial, that he did affirm so: and I do desire now to know of you, Mr. Oates whether ever you came over with Mr. Hilsley?

Oates. That which I said then, and that which I say now, us (because you should not puzzle yourselves), that one Mr. Hilsley did come over with us when we did.

Hilsley. My lord, I did not.

L. C. J. How can you tell?

Hilsley. I left him at St. Omers.

L. C. J. What say you, Mr. Oates?

Oates. It is true, Mr. Hilsley did leave me at St. Omers because he went out a Sunday morning, and I came out of the Monday morning, but I overtook him at Calais.

Hilsley. My lord, that is false, and I have a great many here that can prove it.

L. C. J. What religion are you of?

Hilsley. I am only to serve his majesty.

L. C. J. Are you not to serve God too?

Hilsley. I am first to serve God, and then his majesty.

Mr. Justice Pemberton. Are you a Catholic?

L. C. J. Are you a Roman Catholic?

Hilsley. Yes, my lord, I am.

Mr. Justice Pemberton. Be not ashamed of your religion, do not deny that; your provin-

cial there can give you a dispensation for what you say.

Hilsley. I hope a Roman catholic may be a lawful witness?

L. C. J. Yes, I deny it not. This is that you say, you left him at St. Omers, you must call more witnesses to back him: master Oates says it is true, you left him at St. Omers but he overtook you at Calais.

Oates. This gentleman lost his money at Calais, and Father Williams did relieve him by my means.

L. C. J. What say you to that?

Hilsley. Why my lord, yes it is true, I did lose my money there, but it is nothing to the purpose, for I will affirm I was never in the ship with him in my life.

Oates. I desire he may be asked, whether he be in the degree of a priest, or not?

L. C. J. That would be a hard question to put to him to make him accuse himself. It would bring him into danger of treason.

Mr. Justice Pemberton. He is a boy very fit to make a Jesuit of.

L. C. J. How could he then come to know this?

Hilsley. I confess it is true, that Mr. Oates did never come over with me. And I have witnesses to prove, that they saw him there next day at St. Omers, and two or three several weeks after.

Sir Cr. Levinz. Mr. Oates hath another circumstance to prove it by.

Oates. He went from us by the way, and did not come up with us to London.

Hilsley. I know how he understood this: there was a gentleman that the witnesses will prove he was very familiar with, the second of May, that told him.

L. C. J. Is that gentleman here?

Hilsley. Here is one here to prove it.

L. C. J. And did he tell them how you lost your money?

Hilsley. Yes, my lord, I suppose so.

L. C. J. I speak seriously I do not understand how he could come by these things.

Parry. My lord, I can testify, if it were lawful for us to swear, and prove that he was at St. Omers that day, when he says he came over.

L. C. J. What is your name?

Parry. My name is William Parry.

L. C. J. What countryman are you?

Parry. I am a Flintshire man.

L. C. J. When was he at St. Omers?

Parry. He was there that 25th day, that day he says he came over.

L. C. J. Was he there all that day?

Parry. He did not stir thence all the day.

L. C. J. How can you tell that?

Parry. I dined with him; that day he went into the infirmary he did not go out of the college, he was sick.

Fenwick. Mr. Parry how long did Mr. Oates stay there at St. Omers?

Parry. He staid till after the 20th of June, I am sure; for on the 20th of June, I know

he was present, by a very good circumstance, he was at an action of ours, a latin play.

Oates. My lord, as to this going into the infirmary at that, I deny it. My lord (if your lordships please), I will shew that this gentleman is not only a votary of the Jesuits, but hath been one of the sodality several years. And they have dispensations, and are bound by an implicit obedience to say what the Jesuits bid them, who are their superiors.

L. C. J. What say you to the 20th of June, the time he says you were there at the seeing of the play?

Oates. My lord, as to that 20th of June I was there, and there was an action at that time, for I was then returned thither from London.

Parry. I deny all that, for he never stirred out of the college.

L. C. J. Young man, in what quality were you there?

Parry. I was a student there, a poet.

L. C. J. How can you say he did not stir thence all the while?

Parry. I know by a particular thing; I dined and supped with him there; but when he was in the infirmary; but the particular passage was this, he did there fall out with a gentleman that was in the infirmary too.

L. C. J. When was that?

Parry. It was at the time that he says he came away.

L. C. J. When went he in?

Parry. The 25th of April, Old Stile, and staid a matter of three or four days.

Oates. Will you be pleased to take notice of this? He says that Hilsley left me at St. Omers when he came away, and that the next day he dined with me and that I went into the infirmary, which, he says, was the 25th of April, Old Stile. Now we will run to argue *ad hominem*; if this were the 25th of April, Old Stile, how did Mr. Williams meet with Mr. Hilsley at Calais, and restore him his money, when the 24th, Old Stile, Mr. Williams was at the consult in London?

L. C. J. When was it that you say Mr. Hilsley was at St. Omers?

Fenwick. Answer my Lord's question.

Parry. He went away the 24th of April, as I remember.

L. C. J. What, Old Stile?

Parry. Yes, Old Stile, according to the reckoning there.

Oates. But, my lord, upon the oath that I have taken, if he mean New Stile, all that this gentleman hath said about this is false, except that I was there the 20th of June.

L. C. J. Was it New Stile or Old Stile that you say Mr. Hilsley went away?

Recorder. He does not know New Stile from Old Stile.

Parry. He went the 24th, that is the Old Stile beyond sea.

Whitebread. I do desire he may answer, whether he does know that Mr. Oates was ever out of the house from the time he came in December till June, but one night.

Parry. No, he never was out but one night at Watton.

L. C. J. From what time to what time?

Parry. It was but two days and one night.

L. C. J. What time was it that he was there first?

Parry. He came thither in December.

L. C. J. And did he stay there all the while?

Parry. He did not stir from the college till the end of June; and never went out but a day or two, as I know of.

L. C. J. Not as you know of; but might not he go, and you not know of it?

Parry. I am sure of it.

L. C. J. How can you tell?

Parry. Not a Scholar goes from thence to England, but the whole college rings of it.

Gavan. And then, my Lord, when they go out, they go in secular clothes; that none must know when any person leaves the college.

Oates. My Lord, in such cases, though it is true in a general sense, yet it is but a general rule, and every general rule admits of its exceptions, and my case was a particular exception. I put on the habit of the house as soon as I did return from London, and did not appear as if I had gone out of the house, nor did I know that it was known that I had been out; for I did never appear in the college in a secular habit.

Whitebread. What his clothes were, does not change the place he sat in; he being ancienter than the boys, had a privilege to sit in a particular place, which must be known to all the house at dinner and supper. He was visible every day there.

L. C. J. I do believe it; and therefore he says, not only that he was reported to be there, but that he saw him there almost every day.

Then another Witness for the Prisoner stood up.

L. C. J. What say you, young lad?

Doddington. I say, my Lord——

L. C. J. What is your name?

Doddington. Doddington.

Oates. Pray, my Lord, ask him if he went by that name at St. Omers?

Justice Pemberton. What was your name at St. Omers?

Doddington. My name was Hollis there.

L. C. J. How old are you?

Doddington. Eighteen years and an half.

L. C. J. What can you say? Where was Mr. Oates?

Doddington. He never went out of the college, but one night to Watton, till the end of June.

L. C. J. When came he into the College?

Doddington. A fortnight before Christmas. I did not mind the day; he says himself it was the 10th of December.

L. C. J. Was he there till June?

Doddington. Yes, he never went out till June but one night.

L. C. J. Where was that? At Watton?

Doddington. Yes, my Lord.

L. C. J. How do you know that?

Doddington. I only know that by what all the house said.

L. C. J. Did you see him every day, except that day?

Doddington. I cannot say I saw him every day, because he was in the infirmary once, and he was there that very day after Mr. Hilsley went away.

L. C. J. What day was it that Mr. Hilsley went away?

Doddington. The 24th of April New Style; and that day he fell sick, and went into the infirmary the next.

L. C. J. What day of the week was that?

Doddington. It was of a Sunday.

L. C. J. And when did you see Mr. Oates?

Doddington. On Monday or Tuesday, I am not certain.

L. C. J. How often did you see him from the 24th of April to June? Did you see him every other day?

Doddington. Yes, that I am sure of for every other day, I am not certain every day.

L. C. J. Are you positive?

Jury. We desire to know what time of the year he was in the infirmary.

Doddington. I discoursed with him in the infirmary two or three days after Mr. Hilsley went away.

L. C. J. But what time of the year was it?

Doddington. He was there first in winter, and then afterwards he was in at this time, which was in April.

L. C. J. Have you any more to say?

Doddington. I can say more, that I saw Mr. Oates the second of May, with one Blood or Burnaby, and I am sure I saw him in his company.

L. C. J. Where did you see him?

Doddington. I saw him walking in the garden with Mr. Burnaby.

Justice Pemberton. When did you come into England?

Doddington. I came over the 24th of April.

L. C. J. How long have you been in England?

Doddington. About two months.

Justice Pemberton. Why did you come over? Were you sent for upon this occasion?

Doddington. No, I was not.

Justice Pemberton. Why did you come over?

Doddington. I came over partly upon the king's proclamation.

L. C. J. What proclamation was that?

L. C. J. North. That those that were in the seminaries should come over again.

Doddington. And partly because I had not my health.

Fenwick. Mr. Gifford, what do you know about Mr. Oates's coming from St. Omers?

L. C. J. When came you from St. Omers?

Gifford. I came over about a month ago.

L. C. J. Upon what occasion?

Gifford. To justify that Mr. Oates was there all the while that he says he was here.

L. C. J. You speak like an honest man, there is no hurt in that.

Fenwick. We did send for him over.

L. C. J. When did you see Mr. Oates there?

Gifford. I saw him the 1st of May was twelvemonth with us, and the 21st of April.

L. C. J. And how long after that?

Gifford. I was in his company for a whole week after I am sure.

L. C. J. You say the 1st of May he was there, how can you tell?

Gifford. The 1st of May there came one Mr. Burnaby to the college, and he fell into acquaintance with him, and I saw him with him: He was with us an whole week at least every day after dinner: We have an hour always after dinner to recreate in, and this gentleman was there with us, and Mr. Burnaby; for Mr. Oates seeing us in the garden at first, put himself into our company, and kept with us.

L. C. J. Was he not in the infirmary?

Gifford. Not at that time, my lord.

L. C. J. When was he in the infirmary?

Gifford. The day after Hilsley went away.

L. C. J. Do you remember that?

Gifford. Yes, I do.

L. C. J. North. How long did he stay in the infirmary?

Parry. About three days.

L. C. J. And for how long together did you see him after Mr. Hilsley's departure?

Gifford. I can swear that I saw him at least till June, if I can believe my own eyes.

L. C. J. Your religion does not allow you to believe your own eyes.

Gifford. I can in my conscience say, I believe I did see him every day, or every other day.

L. C. J. Which do you say, did you see him every other day or every day?

Gifford. If I say, I saw him every other day, that is sufficient.

L. C. J. Do you know that he went out of the college at any time.

Gifford. Yes, he went for one night.

L. C. J. Whither?

Gifford. To a place called Watton.

L. C. J. What did he go thither for?

Gifford. For his relaxation.

L. C. J. How came you to take such particular notice of him, that he was there?

Gifford. It is impossible but we should see him, and take notice of him, for we dine all together in one room, and we could not but take notice of him, for he was at a distinct table by himself.

L. C. J. How many are there that dine in one room?

Gifford. One hundred and fifty.

L. C. J. How could you know him, when there were so many.

Gifford. He was at a distinct table by himself, between the boys and the religious.

Then stood up another, one *Palmer.*

L. C. J. Well, what do you ask him?

Fenwick. the same question as the rest.

L. C. J. When came you from St. Omers?

Palmer. I came two or three months ago.

L. C. J. Why did you come over?

Palmer. I had no mind to stay any longer.

L. C. J. Where does your father live?

Palmer. By Windsor.

L. C. J. When did you see master Oates?

Palmer. I saw him the first day of May, New Stile, and I know it for a particular reason; there were strangers dined at the college that day whereupon master Oates, and several other boys played at nine pins, in the afternoon, I saw them.

L. C. J. Why, you do not count all boys there, do you?

Palmer. All but those that are the religious.

L. C. J. Why you did not count master Oates a boy, did you?

Palmer. He was none of the religious: He sat indeed at a table by himself, but he went to school with the boys, and we called all the scholars boys.

L. C. J. How often did you see him?

Palmer. I will tell your lordship, I saw him the first of May, for that reason; the second of May I saw him with master Burnaby, a man that he had never seen in all his life before, and we wondered that he had so much impudence as to insinuate himself into his company.

L. C. J. What is he?

Palmer. He is a gentleman that is now in Flanders.

L. C. J. How do you know that Mr. Oates had no acquaintance with him before?

Palmer. Because I know he was in England, and came over while master Oates was actually at St. Omers.

L. C. J. But he might be of his acquaintance in England.

Palmer. I heard master Burnaby say, he never saw master Oates in all his life before. The second of May I saw him at the action, the fifth of May master Killinbeck went away, and I saw master Oates actually there then, and one master Poole went away; and I remember Oates was there for a particular reason; he was a kind of a weak man, something soft, not over-wise, and we were asking him, why he would go away by himself; and talking of it afterwards, says master Oates, (I will not say positively those were the words, but that was the sense.) 'He does not go alone, for there goes esq. Pool and esq. Fool together.' The 11th day we had an action, a play also, whereupon there was a particular place for the musicians to play in, where no one else was to sit; master Oates would sit there, and thereupon there was one master Watson quarrelled with him, and they had like to have fought.

L. C. J. This was the 11th of May?

Palmer. Yes, my lord, New Stile, and the other was the 5th.

L. C. J. But you saw him betwixt that time?

Palmer. Yes, my lord, I did.

L. C. J. And so for how long?

Palmer. I saw him at four o'clock in a morning, reading father Worsley's controversies, and so for several days together.

Fenwick. Did he go away before June.

Palmer. No he did never stir till June.

Sir Cr. *Letins*. Did not you go sometime by the name of Sanders or Hill?

Palmer. No, only by the name of Thomas Palmer.

Sir Cr. *Letins*. Hark you, sir, who maintained you at St. Omers; Do not you know one Mr. Caryl?

Palmer. No my father maintained me.

L. C. J. Who is your father?

Palmer. Sir Philip Palmer.

L. C. J. What country gentleman is he?

Palmer. Buckinghamshire.

Mr. Justice *Pemberton*. He is cup-bearer to the king.

Then stood up one master Cor.

L. C. J. How long have you been from St. Omers?

Cor. Two months.

L. C. J. What countryman are you?

Cor. I was born at Brussels, to serve you.

L. C. J. Do you know master Oates?

Cor. Yes, I did, very well.

L. C. J. Where?

Cor. At Saint Omers.

L. C. J. When?

Cor. I left Saint Omers seven months ago, and I came away in the month of November, after master Oates. My lord, I can prove that he was there in April and May: I went from Saint Omers to Brussels, and from Brussels I came straight to London.

L. C. J. But when did you see master Oates there?

Cor. I can prove I saw him at Saint Omers, when he says he was in England, and that by this circumstance; master Pool, who was my music-master, was sick there, and master Oates was often with him.

L. C. J. Were you there all the time he was there?

Cor. Yes, I was, till he went away.

L. C. J. When did he go away?

Cor. Master Oates went away in the month of July.

L. C. J. Are you sure of that?

Cor. Yes, my lord, I am.

L. C. J. Not in June?

Cor. No, my lord, July.

L. C. J. Why, he differs from all the rest.

Cor. My lord, I can prove he was at Saint Omers when he says he was in England.

L. C. J. Why, what month did he go away?

Cor. My lord, I can prove that Mr. Oates was never absent from Saint Omer, till he went away for good and all.

L. C. J. When was that?

Cor. He went after the Consult of the Jesuits, which he says was in England in April.

L. C. J. Come, come, answer me plainly, if you can, in what month Mr. Oates left Saint Omers?

Cor. I say, Mr. Oates was never absent from Saint Omers, till the Consult of the Jesuits was over, which he hath confessed himself to be at.

L. C. J. When was that?

Cor. Why, it was after May, 'tis no matter

what the month was, whether June or July. (At which the people laughed.)

Cor. What do you laugh at, Sirs? why, suppose I mistake the month, it is no matter.

L. C. J. Look you, we are now upon a question of time, and you cannot tell that a man is there at a certain time, unless you can prove the certain time when he came away.

Cor. I can prove that he was there till after the Consult of the Jesuits. (And then the people laughed again).

L. C. J. Aye, I believe you there, it is enough for you, but you have done a very great prejudice to those persons that you came for, for you come to prove the conclusion, but do not take notice of what mediums you are to use. Say you, if I can but prove that he was there till after the Consult of the Jesuits, that is the thing in question, and I need no more; but this is serving a turn only: pray can you tell me what month he came to St. Omers?

Cor. Yes, he came thither in the month of December.

L. C. J. And when did he go away again?

Cor. He was never absent from St. Omers, out of the view of the scholars except one night that he went to Watton, and one day when he was in the infirmary, but even at that time he was seen by some of the scholars.

L. C. J. Yet you cannot tell the time that he went away?

Cor. He was never absent all the while.

Justice *Windham*. Do you know when the Consult of the Jesuits was? upon what day?

Cor. He says he went away with Mr. Hilsley; but he did not, I can prove the contrary.

L. C. J. No, no, he says he followed him, and overtook him at Calais.

Cor. That is false, and I can prove it by this circumstance: One Mr. Conquest was to go for England that day, and he came into the refectory, and told us a story of this Mr. Conquest's being unwilling to rise in the morning to go for England.

L. C. J. When did he tell that story?

Cor. That day that he was to go for England.

L. C. J. How long was that after Mr. Hilsley went away?—Cor. The day after.

Gavan. When was the time that Mr. Conquest went for England?

Cor. In the month of May, as we count.

L. C. J. What time in the month of May?

Cor. It was the 5th: And he says that Mr. Pool and Mr. Nevil were in England with him; but I can testify that they were not absent, for one of them was my music-master.

L. C. J. Was he there all May?

Cor. Yes, that I can testify upon my oath.

L. C. J. And all June?

Cor. Yes, my lord; but if I prove he was not in May in England it is sufficient.

L. C. J. Upon my word, you deserve a sharp penance, for running into that fault two or three times: You have done them no kindness in this matter.

Gavan. If your lordship will take advantage of every circumstance, young men may not remember the particular day of his going away.

L. C. J. But you hear how he delivers his evidence, it is as if he had been instructed, You must come and prove that Oates was not in England in April and May, and that will do our business; for he tells you, it is sufficient; but we will have it proved to satisfy us.

Cor. But why should I say more than I know?

L. C. J. You mean more than you are instructed about. I only ask you one short question, Do you know when Mr. Oates left St. Omers? Name the month.

Gavan. If you do not remember the time, say so.

Cor. My lord, I cannot remember it.

L. C. J. Then call another. Who stood up.

Oates. My lord, I desire they may be examined apart.

L. C. J. You need not trouble yourself about that. What is your name?

Billing. My name is Thomas Billing.

L. C. J. When came you from St. Omers?

Billing. I came three months ago, I think, my lord.

L. C. J. Do you know Mr. Oates?

Billing. Yes, my lord, very well.

L. C. J. When did you see him at St. Omers?

Billing. My lord, I saw him when he came, the same day, or the day after.

L. C. J. When was that?

Billing. In December, my lord, the 10th of December.

L. C. J. And he staid there how long?

Billing. Till the latter end of June.

L. C. J. Was he never absent?

Billing. I can very well remember that he went to Watton in the Christmas. I was then in the Infirmary myself, and he and his companion came in there to see us, and said he had been at Watton.

L. C. J. But he was twice in the Infirmary, was he not?

Billing. Yes, my lord.

L. C. J. When was the second time?

Billing. The second time was in April, I went in the week before Christmas: On St. Thomas of Canterbury's day I came out again.

L. C. J. But you say the second time was in April?

Billing. Yes.

L. C. J. How long was he there then?

Billing. Truly I was not with him then, but I think three or four days.

L. C. J. Were you in the College then?

Billing. Yes, my lord, I was.

L. C. J. Did you see him in the College from time to time?

Billing. Yes, I did.

L. C. J. How long?

Billing. For all the time that he staid.

L. C. J. How long was that?

Billing. That was from December, till the latter end of June.

L. C. J. Was he there all May?

VOL. VII.

Billing. Yes, my lord. He says he was 8 days in England, but he could not be so, for he entered himself into the Sodality the 25th of March, and not long after his admission, he was put to read every Sunday morning at 6 o'clock. And after that he began once to read, he never was absent from that time till the time he went away.

L. C. J. Why, did he read when he was sick?

Billing. He was not sick upon the Sunday.

L. C. J. You say he was sick in April?

Billing. Yes, my lord.

L. C. J. But he was not sick of a Sunday, in April?

Billing. He was only a little indisposed, and frequented the Infirmary in the day-time for a matter of three or four days.

L. C. J. Did he read at the time he was sick in the Infirmary?

Billing. He was not sick a whole week.

L. C. J. Did it reach to a Sunday?

Billing. No, my lord, that I remember.

L. C. J. How long did he continue there?

Billing. Till towards the latter end of June.

L. C. J. Did you see him once in two or three days?

Billing. Yes, my lord, I did, constantly. And upon the 2nd of May, I very particularly remember, looking out into the garden, I saw Mr. Blunt walking in the garden, and Mr. Oates with him: and observing him to be very intimately familiar with him, I asked some that were with me, Does this Sampson, for he went by that name in the College, says I, does Sampson know Dick Blunt? No, said they; and he wondered at his confidence, having no greater acquaintance; I saw him that day, walking in the garden with that Blunt.

L. C. J. That was the 2nd of May?

Billing. Yes, my lord.

L. C. J. And he was constantly in this gentleman's company that day?

Billing. Yes; and moreover the same day this Sampson was walking with one John Rush-ton in the garden, and seeing me walk alone, Thomas, says he, have you never a companion? No, Sampson, said I: Well, said he, pr'ythee come to us. So I was with him walking a little while, and then this Blunt and one Henry Howard were playing one with another, throwing stones at one another's shins. At which he was displeased, and said, if they would not be quiet, he would go and tell the rector. Howard was hasty, and spoke angrily to him, and said, if he would not be quiet, he would beat him: But Mr. Oates persisting, and daring of him, says he, What do you dare me? and comes up to him, and throws up Mr. Oates his heels. With that Mr. Oates looked very fretfully upon him, and withdrew himself into the Infirmary, as we thought, to speak to the rector. And by these particulars, and such as these, I remember to have seen him every day, one day with another, or every other day, at St. Omers, till he went away, which was in June.

Then stood up another, one Townley.

2 B

L. C. J. Come, Mr. Townley, do you know Mr. Oates?

Townley. Yes, my lord.

L. C. J. When came you from St. Omers?

Townley. I came a week before Easter.

L. C. J. When saw you this same Mr. Oates at St. Omers?

Townley. I saw him in June.

L. C. J. When else?—Townley. In May.

L. C. J. When else?

Townley. In April.

L. C. J. Was he there in all April, all May, and all June?

Townley. No, not all June. He went away, as I take it, about the 10th of June.

L. C. J. Pray, how often did you see him? Did you see him every day?

Townley. I conversed with him every day. He was partly a scholar, and partly a father; and sat at a table by himself. He went to school as a scholar; it is true, indeed, he did not learn, as the rest of the boys did, but he went to school, as the boys did, and was at a table from the fathers, as the boys were, but apart and alone.

L. C. J. But how often did you see him? was it every other day?

Townley. Yes, I believe I did.

L. C. J. What, for all April, and all May?

Townley. Yes.

L. C. J. How came you to take such particular notice of it, that you can say, you saw him every other day?

Townley. If I constantly dine with one, or if he be at a single table alone, he cannot be absent, but I must take notice of it: And he was neither as a father nor a scholar, but betwixt both, and therefore the more to be taken notice of.

L. C. J. This then you say, he sitting by himself, and being distinct from all others, you might more easily observe his absence, than any other's. This is that you say?

Townley. Yes, my lord.

L. C. J. You say well. Call another.

Then stood up one Fall.

L. C. J. When came you from St. Omers?

Fall. About two months ago.

L. C. J. When did you see Mr. Oates?

Fall. I saw him when I was in my syntax, and now I am in poetry.

L. C. J. What month did you see him in?

Fall. When he came first, as I remember, it was at Christmas.

L. C. J. Christmas last?

Fall. No, it was Christmas was twelve-month, Christmas 1677.

L. C. J. How long did you see him there?

Fall. I saw him there from that time till June, only when he was at Watton.

L. C. J. Was he never sick?

Fall. I saw him in the infirmary myself.

L. C. J. How can you tell when a man is sick?

Fall. I do not pretend to that, but he was in the infirmary as a sick man.

L. C. J. How came you to take particular notice of it?

Fall. I took no particular notice, but I have recollected my memory.

L. C. J. Upon what occasion?

Fall. Upon this occasion.

L. C. J. How often did you see him?

Fall. I saw him every day.

L. C. J. How long have you been in the convent?

Fall. My lord, I have been there two years and a half.

Then stood up John Hall.

L. C. J. When came you from St. Omers?

Hall. In July, my lord.

L. C. J. How long have you been there?

Hall. Seven years, and upwards.

L. C. J. How long is it since you came from thence?

Hall. In July, in the year 1678.

L. C. J. And did you see Mr. Oates there then?

Hall. No, my lord.

L. C. J. When did you see him there, then?

Hall. I saw him there in April, May, and June.

L. C. J. What, all June?

Hall. No, my lord.

L. C. J. How long in June?

Hall. He went away about the 23rd of June?

L. C. J. How came you to take such particular notice Mr. Oates was there all this while?

Hall. I was a servant there.

L. C. J. In what way?

Hall. A refectorian, a butler.

L. C. J. Did you keep books of what meat and drink they had?

Hall. No; I laid their table, drew their beer, and laid the bread.

L. C. J. And did you serve Mr. Oates with bread and beer every day?

Hall. Yes, my lord, most days.

L. C. J. Did you serve the infirmary?

Hall. No, my lord.

L. C. J. But you say you served him every day?

Hall. Yes, my lord, the most of the time he remained there; I acknowledge he was in the infirmary.

L. C. J. How long?

Hall. Four or five days, or thereabouts.

L. C. J. Was he in the college in April?

Hall. Yes, my lord, all along.

L. C. J. And all May?

Hall. Yes, my lord, I saw him all May, I laid his table near the door, at a particular place where he always sat.

Jury. My lord, we desire to know what employment he is of now?

L. C. J. Hall, what made you come into England?

Hall. My lord, I had not my health there.

L. C. J. How long had you lived there?

Hall. Seven years, and upwards.

L. C. J. And when began you to be sick?

Hall. I had not my health at Christmas, in December 1677.

L. C. J. What employment have you here, for you had a good place there?

Hall. I live at home, with my father and my friends.

L. C. J. What is your father, where lives he?

Hall. He is a gentleman; he lives in Radnorshire.

L. C. J. When came you to London?

Hall. I came to England in July 1678.

L. C. J. But you say that your father is in Radnorshire, when came you here to London?

Hall. I have been here about a month. I was summoned up as a witness.

Then one *Dallison* was called, who did not appear; and one *Maushel* appearing, but speaking French, and no English, and an interpreter not being ready, he was for the present, by the consent of the prisoners, set aside. And then stood up one *Cooke*.

L. C. J. When came you from St. Omers?

Cooke. In January last.

L. C. J. And where have you been ever since?

Cooke. Here in town, my lord.

L. C. J. Does your father live here in town?

Cooke. No, my lord.

L. C. J. Does your friends live here?

Cooke. No, my lord.

L. C. J. You came over upon this occasion, did you?

Cooke. Yes, my lord.

L. C. J. When did you see Mr. Oates there?

Cooke. I saw him in last June.

L. C. J. And was he there in July?

Cooke. No, my lord.

L. C. J. What time did he go away?

Cooke. The 23d, the eve of the feast of St. John Baptist.

L. C. J. How do you know?

Cooke. I made him some clothes.

L. C. J. Are you a taylor?

Cooke. Yes.

L. C. J. How often did you see him?

Cooke. Every day.

L. C. J. How came he to keep you company?

Cooke. I could not choose but see him, sometimes I saw him twenty times a day.

L. C. J. Where was he in April?

Cooke. He was there all April.

L. C. J. He might be absent one day, or so, and you see him not?

Cooke. He used to come twice a week to my shop for things.

L. C. J. Was he there all May?

Cooke. Yes.

L. C. J. You say you saw him every other day?—*Cooke.* Yes, my lord.

Sir Cr. Levinz. Why, Sir, there are 150 scholars there, how can you tell he was there so well?

Justice Pemberton. Can you tell every one that was there all that time?

Cooke. No, I cannot tell every one that was there, but he was particular enough.

L. C. J. Did you live in the town as a taylor, or in the college?

Cooke. In the college.

Mr. Belwood. Was Mr. Oates at Watton any part of the time?

Cooke. Yes, he was.

Mr. Belwood. What day? what month?

Cooke. I cannot justly say the day, but it was in April.

L. C. J. How long was he absent?

Cooke. Only one night, as it shall please you.

Justice Pemberton. Hark you, how came you to take notice that he was at Watton one night?

Cooke. It was talked of among all the scholars.

L. C. J. How can you remember what was said a year ago of one man?

Cooke. It was reported all over the house.

Gavan. In one place of his Narrative, he says he came over with sir John Warner and sir Thomas Preston.

L. C. J. North. That is nothing to the purpose. If you can contradict him in any thing that hath been sworn here, do.

Gavan. If we can prove him a perjured man at any time, we do our business.

L. C. J. You should have proved him a perjured man before: How can we prove one cause in another? and then too he had been provided to make his defence: Can he come prepared to make good every thing that he hath said in his life?

Oates. Can I come to make good my evidence against all I have done in my life?

L. C. J. Look you, if so be he hath forsworn himself in any former trial, if that would appear, you have all the reason to make use of it; but you have not taken the right way, you should have indicted him and tried him for perjury in the former trial, and then he could not have been heard at all in this.

Whitebread. We were all prisoners close shut up.

L. C. J. We know you have a party strong enough, and willing enough to convict him of perjury, if they could; but look you, gentlemen, here is the thing, if you can give such evidence as will satisfy the jury that he was absent all April and all May, you have said a great thing. His evidence will be quite contradicted.

Whitebread. He says he came over with sir Thomas Preston and sir John Warner, and others.

L. C. J. He says nothing of it now.

Oates. May it please you, my lord, I will answer it, if you please.

L. C. J. They desire to know who came over with you when you came over in April.

Oates. I will tell you, and to convince the court, that in neither of the trials I did contra-

dict myself, I say, I did name some persons at one time that I did not name at another, because some mens names did occur to my mind at one time than did at another: There came over with me the rector of Liege, sir John Warner, Father Williams, Father March, Father Warner, sir Thomas Preston, and others.

L. C. J. This is dealing plainly with you.

Then stood up one *Bartlett*.

L. C. J. What countryman are you?

Bartlett. I am a Dutchman.

L. C. J. Can you speak English?

Bartlett. Yes, a little.

L. C. J. When came you from St. Omers?

Bartlett. I came from St. Omers the 23d of May, in the year 1678, New Stile.

Gavan. My lord, this man is come over to testify, that Oates is perjured in a circumstance about sir John Warner.

L. C. J. He is to contradict Mr. Oates's testimony, for he says he came over with John Warner, and you say sir John did not come at that time.—*Gavan*. Yes.

L. C. J. Well, when did sir John Warner come over from St. Omers?

Bartlett. Whither?

L. C. J. Into England.

Bartlett. Sir John Warner hath not been in England all May, and all the month of April.

L. C. J. Where was he?

Bartlett. He was at Watton: I did see him there.

L. C. J. Were you there all that time?

Bartlett. Yes, I was.

L. C. J. North. Were you there all May?

Bartlett. Yes, I was.

L. C. J. When did you come over into England last?

Bartlett. The 23d of May.

L. C. J. How long have you been in England?

Bartlett. About five or six weeks.

L. C. J. What is your name?

Bartlett. My name is *Bartlett*.

L. C. J. But you say that you came over the 23d of May.

Bartlett. I did not come over till the latter end of June.

L. C. J. Just now you said, you came over the 23d of May.

Bartlett. No, my lord, I thought you asked the question when Mr. Oates came over.

Justice *Pemberton*. He says so, as your lordship says before.

L. C. J. How do you know when Mr. Oates came over.

Bartlett. I heard so beyond sea.

Then one *Carrier*, a foreigner, appearing, and not being able to speak English, Mr. Tisser the under sheriff of Middlesex was sworn truly to interpret his testimony.

L. C. J. Mr. Tisser, you are only to tell us what he says: Ask him when he came into England last.

Tisser. He says, my lord, it was between seven and eight weeks ago.

L. C. J. Ask him if he knows where sir John Warner was, last summer was a year ago.

Tisser. He says, my lord, he was in Watton for two years last past.

L. C. J. Ask him where he was all April was twelvemonth, and all May.

Tisser. My lord, he says, that the last Sunday in April sir John Warner was at his house at Watton.

L. C. J. And where was he all May?

Tisser. In the same house.

L. C. J. Ask him how he does know.

Tisser. My lord, he saith, that he was a gardener there.

L. C. J. It seems he says to the same effect as the last witness did. Call another. Who did stand up.

L. C. J. What is this man's name?

Gavan. His name is Charles Verron.

L. C. J. Does he speak any English?

Gavan. No, he does not.

L. C. J. Then, Mr. Tisser, ask him if he knows sir John Warner, and where he was April and May was twelvemonth.

Tisser. He says, my lord, that he was at Watton all April and May, and continued there till September.

L. C. J. Pray ask this man what quality he is of there.

Tisser. He goes along with a vessel between St. Omers and Watton, and that he knows it to be true.

L. C. J. Ask him if he did see him every day.

Tisser. He says, generally, my lord, daily.

L. C. J. Ask him what religion he is of.

Tisser. He says he is of the Roman religion.

Then stood up one *Baillee*.

L. C. J. Ask him, Mr. Tisser, if he knows sir John Warner; and where he was all April and May was twelvemonth.

Tisser. He says the same, that he was at Watton all April and May.

L. C. J. Ask him how he can tell.

Tisser. He says he is a servant of the house.

L. C. J. And did he see him there daily?

Tisser. My lord, he says that he gave him directions to make a bastymment, that he is a mason, and that he did give him directions daily about it, and that he saw him every day.

L. C. J. Look you, Gentlemen of the Jury, he speaks to the same purpose that the three witnesses before spoke to; he says he is a mason, and that he built a bastymment there by direction from sir John Warner, and that sir John Warner came daily to give directions about it.

Then stood up one *John Joseph*.

L. C. J. Do you know sir Thomas Preston?

Joseph. Yes, my lord.

L. C. J. When did you see him?

Joseph. In the months of April, May, and June.

L. C. J. Where was he then?

Joseph. He was at the English house at Liege.

L. C. J. Did you see him there? How often did you see him there?

Joseph. I saw him there every day almost.

L. C. J. What occasion had you to see him? What were you there?

Joseph. I was porter of the gate.

L. C. J. And did you see him all the month of April?

Joseph. Every day, most commonly.

L. C. J. Did you see him once in a day or two?

Joseph. I did see him in April, May, and June.

L. C. J. That you might do; but did you see him every day?

Joseph. Every day most commonly, I cannot absolutely say, but two or three days in a week.

Sir Cr. Levinz. Pray do you know of any time that sir Thomas Preston was absent from Liege?

Joseph. He was in the time of vacancy.

Sir Cr. Levinz. Was he not absent in April or May?

Joseph. No, my lord.

L. C. J. When are the vacancies?

Joseph. In August, my lord.

Then stood up one *Peter Carpenter*.

L. C. J. Do you know sir Tho. Preston?

Carpenter. Yes, my lord, very well.

L. C. J. Where did you know him?

Carpenter. I knew him at Liege.

L. C. J. How often did you see him there in April and May?

Carpenter. Every day I saw him there, all April and May.

L. C. J. What office had you there?

Carpenter. I was caterer.

Gavan. My lord, we have no more witnesses as to this point. But, my lord, my case is different from the others; Mr. Oates says he did not see me in the congregation, but he says, he afterwards saw my hand to the consult: Now, my lord, I have a witness to prove that I was at that time at Wolverhampton in Staffordshire. Nobody hath a right to sit in the congregation till he become a professed Jesuit, which at that time I was not.

L. C. J. He does not charge you to have been there, though he says he saw your hand to it.

Gavan. My lord, I was then in the country.

L. C. J. North. That will do you some, and yet but little service, if you can prove yourself at Wolverhampton at that time; but call your witnesses.

L. C. J. Mr. Gavan, he says he saw a letter of yours, giving an account how affairs stood in Staffordshire and Shropshire, and that afterwards in July, and before that gentleman, Mr. Ashby, went to the Bath, he heard you discourse of the same matter: And though he cannot charge his memory to say he saw you the 24th of April, yet, says he, I did see his hand

to the consult; and being asked how he knew your hand, he says he knew it by your writing a bill of exchange in his presence.

Gavan. I could not sign the consult at London, and not be at London.

L. C. J. North. I believe in such a business you care not how many hands you have; but we will not prevent you calling your witnesses: You are upon your life, do not spend the time, call them quickly.

L. C. J. What do you call them to prove?

Gavan. To prove that I was at Wolverhampton the 24th and 25th of April.

L. C. J. Pray hear what he says himself. You say, sir, you saw his hand to the consult that was in April; pray, when was it that you saw it?

Oates. It was in June or July.

L. C. J. North. You might set your hand afterwards to it, if you were not there then.

L. C. J. You say you were then in Staffordshire, and might not you set your hand afterwards when you came to town? I will tell you, Mr. Gavan, in April they met, and had such a resolution; you were then in Staffordshire; might not you come to town in July following, and set your hand to what was agreed in April before? And you cannot contradict him, but by shewing that all June and July you were not here: For if you prove yourself never so much to have been at Wolverhampton in April, that will not serve the turn. You seem to make a very great defence of this: all that Mr. Oates says is, that the 24th of April he was present where there was a consult had about the death of the king, and divers persons set their hands to the resolve. Mr. Gavan afterwards was in town, and then, says he, I saw his hand set to the consult: I will not charge my memory to say he was present, but I will tell you why I believe it was his hand, because I saw him draw a bill of exchange, and that was just like the same hand.

Gavan. Ay, but, my lord, I was not here in April.

L. C. J. But this proves, in effect, that you set your hand to the thing afterwards. And now if you shall prove yourself never so plainly not to have been there in April, you do not come to the thing: it is still a *non liquet*, whether you were here July, or no. And Mr. Oates does not positively charge you as to April. Well, call your witnesses, and prove what you will.

Catharine Winford was called, and appeared.

Gavan. I desire you would be pleased to ask her, where I was the 23rd of July?

Winford. My lord, I am very sure he was a sojourner at our house the most part of the summer, in June and July both: in July the 23rd he went away from my house, and took another lodging more convenient for that which he had to do.

L. C. J. Where? in what town was this?

Winford. At Wolverhampton in Staffordshire.

L. C. J. Was he never away from you all that time?

Winford. No; and then he went to another lodging in the town.

L. C. J. Do you say that he sojourned with you all June and July till the 23rd?

Winford. He sojourned with me longer; but I only name those months, because they are only in question.

L. C. J. Where did he go when he went from you?

Winford. He took another lodging in the town.

L. C. J. And did you see him then?

Winford. I saw him then every day, or every other day.

L. C. J. Are you a Roman Catholic?

Winford. Yes, my lord, I am so.

L. C. J. Call another.

Gavan. Call Mary Poole. [Who stood up.]

L. C. J. Do you know Mr. Gavan?

Poole. Yes, my lord.

L. C. J. How long have you known him?

Poole. This six or seven years.

L. C. J. Pray do you know where he was this time twelvemonth?

Poole. He was at Mrs. Winford's house at Wolverhampton.

L. C. J. How do you know?

Poole. I was a servant there in the house.

L. C. J. And where was he in April?

Poole. He was at my mistress's house.

L. C. J. And where was he in May?

Poole. My Lord, I believe he was there?

L. C. J. And why do you believe he was there?

Poole. Because I don't remember his going forth, till the latter end of July, and he was there in June too.

L. C. J. You answer readily, as to June and July, why did you stick at the month of May, more than the other months? for you know, when I asked you where he was in April, then you said he was at home; why do you doubt whether he was there in May, or no? pray tell us why it is not as certain to you that he was not there in May, as that he was there in June. Why do you doubt more of it?

Poole. I do not doubt but that he was there.

L. C. J. But why did you not answer then as readily to the one, as to the other?

Poole. My Lord, any one may mistake.

L. C. J. This you were not prepared for, and it was a question you did not come ready to answer: are you a Roman Catholic?

Poole. Yes, my Lord. [Here the people laughed.]

L. C. J. Look you, you must know there is no other use to be made of it, but only to shew, that protestants are so averse to popery in England, that they will not endure a Roman Catholic in England: but they are good evidence and competent witnesses, I must tell you that, and no man must deny it; for though you deny heaven to us, yet we will not deny heaven to you, nor witnesses; though you say heretics will be damned, yet we hope they will never,

while they do not follow your practices. [At which the People gave a great shout.]

L. C. J. You must pardon the people's shouting; for you have turned their hearts so, that there is no living for a papist in England, I will maintain it. [And then the People shouted again.] You shall have all the justice that can be, and all the favour the law will allow.

Gavan. If there be but a place for us in heaven, I am contented; My Lord, I desire you will be pleased to ask this Mrs. Catharine Winford, whether she does not remember that I came from my Lord Aston's the Monday before.

L. C. J. Mrs. Winford, what say you? do you remember any passages about the time he left your house?

Winford. My Lord, I did not know directly and positively what I should come to answer, and therefore I cannot recollect myself.

L. C. J. Do you know that he went to any gentleman's house some time before he left your house?

Winford. Yes, my lord, he went often abroad.

L. C. J. To whose?

Winford. To my Lord Aston's.

L. C. J. How long before?

Winford. I cannot tell.

L. C. J. How long did he stay at my Lord's? Did he ever stay five or six days?

Winford. I cannot tell.

L. C. J. My meaning is this, in plain English, to ask you plainly, and you ought in conscience to speak the truth as much as if you were upon your oath; for you are in the presence of God who will judge you as severely for a falsehood in this case, as in the other: I would ask you whether he could not possibly be absent, and make a step to London, and you be never the wiser?

Winford. My Lord, I am as confident as I can be of any thing in the world, of the contrary.

L. C. J. Might not he be in London the end of June or July, and you not know it, when he pretended to go to my lord Aston's?

Winford. I do not know, but I am very confident he did not.

L. C. J. But was he absent long enough to have done it? Can you charge your memory with that?

Winford. It was possible it might be so, but I am confident it was not, because I used to order my maid to get him his linen ready upon any journey, and he had none now.

Oates. My Lord, he took a chamber to go into the exercise; now, my Lord, he taking a chamber on purpose for this very thing, he might pretend that, and come to London the while, and they not know it, because he was shut up; for none are to come at them.

Winford. My Lord, I know not any such thing of him; but this is a rule amongst them, that when they are so shut up, if there be a necessary occasion to come to them about any particular business, as sending them linen, or so, they have admittance to them.

L. C. J. Were you employed upon any such extraordinary matter?

Winford. My Lord, I used to go and see him, and carry him his linen.

L. C. J. And can you charge your memory with that?

Winford. Yes, my Lord, I can.

L. C. J. When? the latter end of July?

Winford. Yes, my Lord, I often went to see him then, when he was gone from my house.

L. C. J. Where was he for all the former part of July, till those eight days?

Winford. He was at my own house.

L. C. J. When went he first into this recluse way?

Winford. He went from my house the 23^d of July?

L. C. J. Was he not close, when he was with you?

Winford. No, my Lord.

L. C. J. And the last eight days you had access to him?

Winford. Yes, I had.

L. C. J. I ask you, are these people shut up at a certain time, and there is no coming to them, upon any occasion?

Winford. My Lord, most of those days I did see him, indeed he was shut up, but upon any kind of business, as the carrying of linen, and sometimes a pair of gloves, and other things of his own, or sometimes to speak with him about business, we were admitted.

L. C. J. I see your confinements are not so great as you would make them to be, or he would have us think: I ask you once more, whether you can say, that during the months of June and July it was not possible for him to make a step to London, and you never the wiser?

Winford. I am very confident he did not, he was not absent long enough to do it.

Sir Cr. Levinz. You said just now, you could not say positively, but he might be absent for five or six days.

Winford. I do not believe he did; for he had no linen with him, which he used to have, when he went to London.

L. C. J. But, supposing he had no linen, might he not go to London, and you not know it?

Winford. I cannot tell whether he was absent, or no, long enough to do it.

Gavan. Pray, my lord, let me speak; as I live, an innocent man will be lost else. He says expressly, I was in town in July; and gives this argument for it, That Mr. Ashby was in town, and he met me with him.

L. C. J. No, no; Mr. Oates was not so positive: He says, it was either in June or July; but he rather thinks it was July. But, mistress, might not he, in the beginning of July, be absent so long, as a man might go to London, and return again; in the first three weeks of July, I mean?

Winford. My lord, I cannot charge my memory, because I did not know what I should be asked, and so could not recollect myself.

I only say I am confident of it, because he always told me, when he went such a journey, that I might make provision of linen to fit him for it.

L. C. J. Your reasons are weak; because he used to tell you, that you might get him linen: Men, upon extraordinary occasions, do extraordinary things; so that you are not to govern yourself by what he used to do, in his acquainting you, or you in providing his linen. This was no ordinary errand, and therefore I do not ask you whether he had linen from you, or no; but you are only to charge yourself with remembering whether he could not be absent long enough out of your sight, to have been such a journey?

Gavan. Pray, my lord, give me fair play. He does charge it expressly, and is precise to a day: He saith, I was here in July, after that Ashby was come to town, and before that he went out of town: And he says, That Ashby came to town in the middle of July, and went out of town about the latter end of July, or beginning of August. Now, my lord, I say this, he saying that Ashby came to town the middle of July, and staid there a fortnight, and then went to the Bath, and that I came to town while that he was there; if I prove that I was in Staffordshire from the 15th or 16th of July to the end of the month, then I shall clear myself evidently; for he does, in effect, charge me to be here, some time in that fortnight's time, and I prove, that all the latter part of July I was in the country.

L. C. J. He does not charge it to a day, but he says it was about a fortnight.

Oates. Mr. Ashby came to town in the beginning or middle of July; I rather think it was the middle, but I dare not, upon my oath, be positive as to the time; and in that time that Mr. Ashby staid in town, Mr. Gavan came to London: For I remember, he said he would go and see Father Ashby, who was then at Wild-House.

L. C. J. Prove where you were now, all July. Call your witnesses.

Gavan. I prove that I was at Wolverhampton, from the 23^d, to the end of the month.

L. C. J. Call your witnesses to prove where you were the beginning, that can speak expressly to it.

Gavan. My lord, I have them not here.

L. C. J. Why then would you make us lose all this time?

Gavan. My lord, I will tell you; hear the words of an ingenuous man: Being, as I was, innocent, not knowing what they intended to charge me with, I, in my mind, run over all that I could imagine I had at any time done, that they could lay hold on. If I had been guilty of any thing, my own conscience would have told me of it; and I should have provided to have given some answer to it: But being innocent, I was to ransack my memory, to sum up all the passages of my life; where I had been, what I had said, what I had done, that would give them any occasion of accusing me.

And because I did imagine they might think I was here the 24th of April, I brought witnesses for that; and because I did imagine that they might speak of some consults in April, I sent up for such witnesses, at my own charge, as could testify where I was then.

L. C. J. But you have not one protestant, that testifies for you.

Gavan. And now, my lord, I humbly cast myself upon the honour and justice of this honourable and just court; to which I submit myself, with all my heart and soul, having used all the remedies I can. I have cleared myself, as to the main day, the 24th of April, whereon all the pretended plot lies: And I will bring witnesses that shall swear, I was not in London in August; and if my eternal salvation lay upon it, I could aver, I was not in London: And I wish I may be made an example of justice before all the world (in the sight of God I speak it) if I be not the most innocent person in the world. And, my lord, seeing there is only his oath for it, and my denial, I have only one demand; I do not know, whether it be an extravagant one or no; if it be, I do not desire to have it granted.

L. C. J. What is that demand?

Gavan. You know, that in the beginning of the church (this learned and just Court must needs know that) that for 1,000 years together, it was a custom, and grew to a constant law, for the trial of persons accused of any capital offence, where there was only the accuser's oath, and the accused's denial, for the prisoner to put himself upon the trial of Ordeal, to evidence his own innocency.

L. C. J. North. We have no such law now.

L. C. J. You are very fanciful, Mr. Gavan; you believe that your cunning in asking such a thing, will take much with the auditory; but this is only an artificial varnish: You may do this with hopes of having it take with those that are Roman Catholics, who are so superstitious as to believe innocency upon such desires; but we have a plain way of understanding here in England, and that helped very much by the protestant religion: So that there is scarce any artifice big enough to impose upon us. You ask a thing that sounds much of a pretence to innocency, and that it would be mighty suffering, if you should miscarry, because you ask that you know you cannot have. Our eyes and our understandings are left us, though you do not leave their understandings to your pro-se-lytes: But you are mistaken, if you think to impose that upon us that you do upon them; and you do so impose upon them. But I will tell you, there is scarce any man with us that can be a papist: For you cannot deceive and gull us, as you have done all that you have perverted to your way.

Gavan. Is it any harm, my lord, to ask whether I might not be so tried?

L. C. J. North. Look you here, Mr. Gavan, the time is far spent; if you have any thing to say, we will hear you; if you have any witnesses, call them, and we will examine them:

But if not, the other prisoners must be admitted to make their defence, as well as you.

Gavan. All these six can prove, that I was at Wolverhampton the last week in July.

Then another Witness stood up for him.

Gavan. Where was I in July?

Witness. I cannot speak to all July; but, my lord, I can declare, that Mr. Gavan was in Staffordshire the last week of July, every day, I am confident.

L. C. J. Where was he, the first three weeks in July?

Witness. I cannot speak as to that; but in the last week in July, he came to an apartment of an house that I lived in.

L. C. J. Look you, Mr. Gavan, you see what this evidence is; she says, that you were in Staffordshire the last week in July, for you had an apartment in the house she lived in. Call another. [Who stood up.]

L. C. J. Where was Mr. Gavan in July last?

2 Witness. My lord, I saw him myself, at the latter end of July, for very many days; for he was in a room of the house that I lived in, I am sure, most of the last week.

L. C. J. Where was he the last fortnight?

2 Witness. I am confident I saw him all the last fortnight, but I cannot be positive.

L. C. J. Call another. [Who stood up.]

L. C. J. Where was Mr. Gavan in July?

3 Witness. My lord, I lived in the same town with him, and I do not remember that he was out all July, but the last week he was in our house.

L. C. J. Well, call another. [Who stood up.]

L. C. J. Where was Mr. Gavan in July last?

4 Witness. He was, in July last, the last week, in a part of our house.

L. C. J. So then he came home, from London, the 23d or 24th of July. Well, Mr. Gavan, have you any more witnesses, to any other purpose? For here are enough to this.

Gavan. No, my lord.

L. C. J. Mr. Whitebread, have you any witnesses to call?

Whitebread. My lord, I have only this, and I desire to be heard in this point, to prove that Mr. Oates was mistaken in his evidence that he gave at the last trial, against Mr. Ireland.

L. C. J. Look you, I must break in upon you; you have been told so often, all of you have been told it, and yet you are upon the former trials again. You are now upon your trial for your life; if you could have disproved any thing that he said at a former trial, you should have taken a legal way, and convicted him of perjury; but now to charge him with a printed paper, is not fair. You must speak to what he says now.

Whitebread. He says the same now. But all that I say is this, If he be not honest, he can be witness in no case: I suppose if any one can prove him not *probus testis*, his testimony is not to be received in any case.

L. C. J. But how will you prove that? Come on, I will teach you a little logic; if you will come to contradict a Witness, you ought to do it in a matter which is the present debate here; for if you would convict him of any thing that he said in Ireland's Trial, we must try Ireland's cause over again. But if you will say any thing against what he says now, do.

Whitebread. That which I would alledge is this, If he be convicted of perjury in one case, he is not to be believed in another.

L. C. J. You say right if he be convicted.

Whitebread. He is not only then an incompetent witness, for he cannot be said to be *probus testis*, but he is *improbus*. Now, this is that I can prove.

Just. Pemberton. Nay, you must shew it by a record.

L. C. J. You cannot have so little understanding; you that have been, and were to be, so great a man among them; had been provincial, and was to have been somewhat else. I have told you already, that to prove him to be a man that hath no faith in him, he must be convicted. You must have indicted him, and convicted him, of the thing wherein he did commit perjury, and then he had been prepared to justify himself. But shall you come now, and at this your trial, and prove what he said at Stayley's Trial, and Coleman's Trial, and Ireland's Trial? And must we examine what matters have received a verdict and a judgment there? For, consider what will be the consequence of it; if it should be false, you there arraign a verdict. You should have convicted him of the falsehood first.

Whitebread. I desire the jury to take notice, that he does not stick to the testimony that he gave then, for if he does, it was false.

L. C. J. They must not take notice of any thing that was done at a former trial, unless it be spoken of now.

L. C. J. North. Do not call any witnesses to prove what he said then, but to disprove what he hath said now.

L. C. J. It is a pretty hard matter to make a priest understand one, for what I see. If the witness shall not gain credit with the jury, that he came over with sir Thomas Preston, sir John Warner; if they are satisfied by those many witnesses 10 or 12, at least, that it is false, they ought not to believe him; but as to that testimony, they ought to believe your witnesses; but he is not presently guilty of perjury: For if they should not give credit to Mr. Oates, you must indict him, and another jury must pass upon him, before he is convicted: For it is one thing to be forsworn and perjured, and another thing to be proved so, and he is not proved to be so, but by a record for that purpose.

Harcourt. If so be our witnesses cannot be looked upon as good witnesses, then there can be no commerce abroad in any other country.

L. C. J. They are, no doubt, good witnesses, till they be proved otherwise; and they are left to the Jury to believe as they think fit.

Harcourt. Now here are divers things that

are brought against myself, by Mr. Bedlow, Mr. Praunce, Mr. Oates, and Mr. Dugdale; if the witnesses that I bring, because they are Roman Catholics, are not good witnesses, then I am in a hard case.

L. C. J. North. Look then, you mistake the thing; those that are not witnesses, we do not hear at all; but our hearing them at all, proves that we look upon them as good witnesses. But when a man is a witness, he is either of more credit, or of less credit, according to the circumstances; and it is a proper question to ask them, whether they are Roman Catholics. But they are witnesses, without all question.

Harcourt. I say, my lord, these persons are known to be every one of them very bad and flagitious persons, and that every one of them have undertaken this course, merely to get a livelihood: they are men of desperate fortunes, they get a living by swearing fast, they find that the best trade.

L. C. J. North. If you have any other witnesses, we will hear them: if you have no other witnesses, then we must hear what the king's counsel reply, and then it will be your turn to say what you can in your defence.

Gavan. I have witnesses here: it is not indeed a positive evidence, but a negative evidence; and I have a brother and a sister in town, and upon my salvation I never came to town, but I came to their house.

L. C. J. That will signify nothing. Mr. Harcourt, have you any more witnesses? If you have them, pray call them.

Harcourt. It is in vain to call them, if they be not to be believed, because they are Roman Catholics.

Sir Cr. Levinz. It is a mistake, we do not refuse any witnesses, because they are Roman Catholics.

L. C. J. No, we have not refused any one point yet.

L. C. J. North. If you have any more, pray call them, and do not spend the time.

L. C. J. Call a priest or two, if you will, we will hear them.

Harcourt. Mr. Oates did accuse me of paying fourscore pounds at my chamber, and he did say afterwards it was at Wild-House. I have persons to justify what was done at my own chamber; and he says Mr. Ireland was by; now here are witnesses to prove, that Mr. Ireland was in Staffordshire all the month of August, therefore he could not be present.

L. C. J. Does he say any such thing now?

Justice Pemberton. That was urged before; pray do not insist upon that, it hath received a trial.

L. C. J. I will tell you what he says, and I will ask him the question: Dr. Oates, it is supposed by your testimony, that Mr. Ireland and Mr. Harcourt were together, when this fourscore pounds was paid, for the villains that went to Windsor to murder the king?

Oates. I never said such a word.

Harcourt. Here it is in the trial.

L. C. J. I stand not by the printed trial, it

is no record in law. In short, were Mr. Ireland and Mr. Harcourt together at that time?

Oates. No, they were not.

Gavan. He did then say, that he did receive of Mr. Ireland, the 2d of September, 20s. that he borrowed of him; now the 2d of September he was at Boscobel.

Oates. My lord, I was not positive as to the day; but as near as I remember, (those were the words I said) it was the 2d of September; but whether it was the 1st, 2d, 7th, 8th or 9th, I would not be positive in it.

Then the prisoners called Pendrel and his wife, and Gifford and his wife; and Gifford stood up.

Gifford. My lord, I was here the last sessions, where I did testify the seeing of Mr. Ireland in Staffordshire, on the 24th of August, Bartholomew-day, and the next day after; at which time Mr. Oates said that he saw him here in town. But Mr. Oates could not be particular in every thing; but at last he came to a circumstance, and averred, that the 1st or 2d of September he did receive 20s. of Mr. Ireland, in Harcourt's chamber; he said it was about the fast-day.

Oates. That was as near as I remembered.

Gifford. Here is in court at least six people that know it; I saw him several other of those days there; but these six people conversed with him every day.

Justice *Pemberton.* How do you know all that?

L. C. J. North. Come, come, you must not speak, as to what he said in Ireland's trial.

L. C. J. What time was it that Mr. Harcourt and Mr. Ireland conferred together about this same business?

Oates. My lord, I do not charge Ireland, but I charge Harcourt with being at Wild-House, and that there Coleman met him, and that there was the greatest part of the money, which was carried back to Harcourt's chamber, and given to the person that was to carry it down to Windsor; but Mr. Coleman was gone away before, and had left a guinea behind him, which was given to the messenger for expedition.

L. C. J. I am mistaken, if you have not testified that Ireland was in town in August and September with Harcourt.

Oates. Ireland took his leave of London betwixt the 8th and the 12th of August, as to go to St. Omers.

L. C. J. Here is the matter, they must have right, though there be never so much time lost, and patience spent. Say they, we must prove and contradict men by such matters as we can; people may swear downright things, and it is impossible to contradict them; but we will call witnesses to prove those particulars that can be proved: say where Mr. Ireland was in August.

Oates. He took his leave of us in town in August, and that was between the 8th and 12th, at Harcourt's chamber.

L. C. J. What do you infer from Ireland's being there then?

Oates. I will tell you what I design in it: your lordship may perceive that I did methodize my evidence according to the time; for I said, this was our business in April, this in July, and now we come to the business of August, said I, we took our leaves of Mr. Ireland between the 8th and 12th. I said, in July Mr. Fenwick was out of town, but then, if your lordship remembers, I said, he was in town, and took his leave of Mr. Ireland, between the 8th and the 12th of August.

L. C. J. Was Mr. Ireland in Fenwick's company at that time in August?

Oates. Yes, my lord, he was when he took his leave.

L. C. J. Did they talk then of this business?

Oates. They took their leaves of one another, but as to what particular things of the Plot they spoke about, I do not remember.

L. C. J. Look you now, mind what he says, Ireland and Fenwick were together in August, between the 8th and the 12th; but being asked, Whether they were not on purpose to talk of the plot? He says, he does not remember the particulars.

Here the Lady *Southcott*, her son, and her daughter, were called.

L. C. J. Did you say, that Fenwick, there at the bar, had converse with Ireland in August, for the carrying on of the plot?

Oates. Yes, my Lord.

L. C. J. My rule is this, in doubtful cases, when men are upon their lives, I had rather hear what is impertinent, than not let them make a full defence.

L. C. J. North. I had rather hear things at a venture, than forbid things at a venture.

Lady *Southcott* stood up.

L. C. J. How long were you in Mr. Ireland's company?

Lady *Southcott.* From the 5th of August to the 16th.

L. C. J. What, every day?

Lady *Southcott.* Yes, every day.

Oates. My Lords, here is Sarah Pain, who before hath testified what she hath known in this matter. If your lordship please, I desire she may be called in readiness to speak to it.

L. C. J. Are you sure it was the 5th?

Lady *Southcott.* Yes, as sure as I can be of any thing.

Recorder. Dr. Oates, you had best keep your evidence entire till the last.

Then Sir *John Southcott* was called, and appeared.

L. C. J. Did you know Mr. Ireland?

Sir *John Southcott.* Yes, I did know him by face.

L. C. J. Where did you see him?

Sir *John Southcott.* I saw him the 5th of August, at St. Albans.

L. C. J. And did he travel along with you?

Sir John Southcott. Yes, he did travel along with us the 6th, 7th, 8th, and 9th.

L. C. J. How many days did he travel along with you?

Sir John Southcott. He travelled along with us four days together, I am sure.

L. C. J. What from the 5th to the 9th?

Sir John Southcott. Yes, Sir.

L. C. J. Is this all that you can say?

Sir John Southcott. Yes, my Lord.

L. C. J. But we would know where he was afterwards. Did you see him after the 9th?

Sir John Southcott. My Lord, I saw him at St. Albans, and he went from thence to Northampton, and from thence to Coventry, and from thence to my lord Aston's, that is four days; and I saw him Thursday, I saw him Friday, Saturday, and Monday following. Tuesday I had occasion to go further into the country, and he went along with us; so I saw him Tuesday, Wednesday, Thursday, and Friday afterwards.

L. C. J. Why then you saw him at least twelve days?

Sir John Southcott. Yes.

L. C. J. Have you any more?

Then Mr. Edward Southcott stood up.

L. C. J. Were you here when Ireland was tried?

Sir John Southcott. No.

L. C. J. Did you see Mr. Ireland in August last?

Mr. Southcott. The 3d of August he came down to my lord Aston's at Stanmore, they said so; but I cannot swear he came that night; but I saw him very early the next morning; the 5th we went to St. Albans, and we kept on till we came to Tixall; and I was in his company from the 4th to the 16th.

L. C. J. Why, you hear what he says, He was in company with him every day from the 4th to the 16th.

Gavan. Call Mrs. Harewell, and her daughter, Mrs. Gifford and Mrs. Pendrell.

Then Mrs. Harewell stood up.

L. C. J. Did you see Mr. Ireland in August last?

Harewell. I saw Ireland in August last, the 17th day: He came then to my house at Wolverhampton, and there he continued every day, and lay in my house every night, till the 26th day.

Then young Mrs. Harewell stood up.

Harewell. Mr. Ireland came to our house in Staffordshire the 17th of August, and staid there till the 26th; I saw him every day, unless it was Friday, the day before Bartholomew-day, when he went to Lichfield and returned again.

Gavan. My Lord, there is a prisoner now in Newgate that can testify the same.

L. C. J. North. Would you ask your fellow if you be a thief? He is in for the same offence.

Gavan. My Lord, I desire to know, if a man

be not convicted of the same offence, whether he be not a good witness?

L. C. J. North. If he stand charged of the same plot his evidence is of little weight.

Then Elizabeth Keiling stood up.

L. C. J. Did you see Mr. Ireland in August?

Keiling. Yes, my lord, I did.

L. C. J. Where did you see him?

Keiling. I saw him at Wolverhampton, there he was from Saturday the 17th, to Monday, and then I went to see my mother, and came back again on Thursday, and found him there, and there he was till the 26th.

Gavan. Call Mr. Pendrell and his wife.

Then Pendrell stood up.

L. C. J. When did you see Mr. Ireland?

Pendrell. I saw him the 2nd and 3d of September.

L. C. J. Where did you see him?

Pendrell. At Boscobel.

L. C. J. And what, did you see him in August?

Pendrell. No, my lord.

L. C. J. How do you know, you saw him then?

Pendrell. My wife being paid for his diet, set down the day.

L. C. J. What, he came to sojourn with you, did he?

Pendrell. They were with me for their meals, and so my wife set it down.

L. C. J. Why, do you set down the day of the month when any one comes to you?

Pendrell. Yes, my lord, when we are paid for their diet, we do.

L. C. J. What, do you keep a public house?

Pendrell. I keep the Royal Oak.

L. C. J. Metbinks, you should have a great deal of company, if you live there; and it is hard you should charge yourself to remember a particular person you did not know before.

Pendrell. My lord, he told me his name was Ireland, and several others did so too.

L. C. J. You had as good have let such trivial evidences as this alone. But go on.

Then Mrs. Pendrell stood up.

L. C. J. Do you know Mr. Ireland?

Mrs. Pendrell. I did know by report it was he.

L. C. J. Where did you see him in August or September?

Mrs. Pendrell. At Boscobel, my lord.

L. C. J. Did you ever see him before that time?

Mrs. Pendrell. No, my lord.

L. C. J. Do you know it was the same man that suffered?

Mrs. Pendrell. I will take my oath of it.

L. C. J. How! when you never saw him before that time?

Mrs. Pendrell. I was in town when he died.

Then stood up Mrs. Gifford.

L. C. J. When did you see Mr. Ireland?

Gifford. My lord, Mr. Ireland came to Wolverhampton August 17th, and he staid there till the 26th, it was of a Monday, I remember it by several circumstances.

L. C. J. Did you know Mr. Ireland?

Gifford. I never saw him before.

L. C. J. Do you know it was the same that died?

Gifford. My lord, here was my brother in town, who saw him executed, and he did assure me he was the same: And I saw him again the 2nd of September, and the 7th of September again, and the 10th and 11th: my lord, he was the same man, I believe, because my brother told me so.

Mr. Gifford. I saw him in the country, and I saw him executed.

Then another Mrs. Gifford stood up.

Mrs. Gifford. I saw him at Pancrass fair in Staffordshire.

L. C. J. Was it the same man that was executed?

Mrs. Gifford. My lord, I cannot say that, I did not see him suffer; but my sister and I were at the window, and she shewed him to me, and said that was Mr. Ireland, and told me how long he had been in England.

L. C. J. How do you know that was the man that was executed? Did you see him tried here?

Mrs. Gifford. Yes, my lord, I did.

L. C. J. And that was the same man?

Mrs. Gifford. Yes, it was, my lord.

L. C. J. When was it your sister shewed you him?

Mrs. Gifford. I saw him upon the 7th of September.

Then stood up one Mr. Bedle.

L. C. J. When did you see Mr. Ireland?

Bedle. I saw him at a place called Millage in Staffordshire, the 2nd of September.

L. C. J. Are you a Roman Catholic?

Bedle. If I must make a confession of my faith, I will. But I saw him there, and they said it was Mr. Ireland the Jesuit.

L. C. J. Had you no acquaintance with him before?—Bedle. No.

L. C. J. How do you know it is the same man that suffered?

Bedle. I do not know that, but I suppose it was the same.

Turner. I am accused for being at Tixall at a consult in September, I desire to know who saw me there, for I have not been there these four years.

L. C. J. Mr. Dugdale saw you there.

Turner. What witnesses besides?

L. C. J. None but he for that.

Recorder. Hath Mr. Fenwick any more witnesses to call.

Fenwick. My lord, I have not any.

Then was Captain Hill called.

Fenwick. My lord, he can prove something against Mr. Bedlow: He says, he lived in good repute; but the captain will tell you, he was in the Marshalsea, and lived a poor mean life, and all the time fed upon the basket.

L. C. J. North. He was guilty of the same treasons that you are guilty of, there is his fault.

L. C. J. No doubt he was a naughty man, he was with you in this plot.

Fenwick. I can prove by sir James Butler's clerk, that he cheated a cutler of a silver-bilted sword.

[Then sir James Butler's clerk was called; but he having more than one, and the person meant not being there, there could nothing be examined about that.]

L. C. J. North. He hath had the king's pardon for all that.

Fenwick. He was forced to run the country for a many cheats, and was forced to borrow 4 or 5s. to redeem his boots. My lord, does his pardon make him a good witness? then we will prove something since his pardon.

L. C. J. No doubt he was bad enough while he was with you.

Whitebread. My lord, I think I have a plain demonstration against Mr. Bedlow since his pardon; he did at my last trial say, that he had nothing to say against me, and now he comes and gives fresh evidence against me.

L. C. J. North. That is an objection that will not take away his evidence, but only goes to the lessening of the credit of it. He says he was in treaty with Mr. Reading about you, and the lords in the Tower; and to beget a confidence in him that the lords in the Tower should receive favour from him, and come off by his means, he was to be easy to you too, which made him lessen his evidence at that time. This is that he says, the weight of it must be left to the Jury. And he said at that time he had more to say at time and place convenient.

Whitebread. There is no such thing in the trial. He hath alledged great matters against me, therefore it is evident he did falsify his oath; for if he were to swear the truth, the whole truth, and nothing but the truth, and he did not say the whole truth, he is perjured; if he did, he can say nothing against me now.

L. C. J. North. Mr. Whitebread, you have your objection, and it must be observed to the Jury. Your repeating of things signifies nothing.

Then Captain Hill stood up.

Fenwick. Pray, Sir, what do you know of Mr. Bedlow?

Justice Pemberton. But don't ask any thing before the pardon.

Hill. I knew him in the Marshalsea.

Fenwick. In what condition was he there, Sir?

Hill. He was a poor man, as I be, and lived upon the basket.

Harcourt. How long ago is it since you knew him there?

Hill. In May was twelvemonth.

L. C. J. That was long before his pardon. But he might be an honest man for all that, though he were as poor as you. Are you an honest man?

Hill. Yes, I think so.

L. C. J. And so might he be. Well, have you any more?

Prisoners. No.

Sir Cr. Levinz. Gentlemen of the Jury, you have heard the prisoners, and they have had a great deal of time to make their defence; but the greatest part of their defence hath been to invalidate the testimony of Mr. Oates; and what is the evidence they have brought against him? They tell you first, That he did not come over in that company that he says he came over with. And whereas he hath sworn he was here the 24th of April, they have taken a great deal of pains by 15 or 16 witnesses to prove that he was all the time at St. Omers; and that sir John Warner, and sir Thomas Preston, who he tells you came over in company with him, never stirred from the places of their residence, that is Liege and Watton, all that time: but this, gentlemen, you must observe, that if Mr. Oates were out of the case, all these persons, except Mr. Turner, are proved guilty of the treason they are charged with; and yet I shall set up his testimony, and make him clear, notwithstanding whatsoever hath been alleged against him. Gentlemen, to take them in order, Mr. Whitebread hath Mr. Dugdale, Mr. Bedlow, and Mr. Praunce, to prove him guilty, let what will come of Mr. Oates, all of them speak to him.

L. C. J. Praunce, do you speak any thing against Mr. Whitebread?

Praunce. No.

Recorder. It was Fenwick and Harcourt.

Sir C. Levinz. But there is Bedlow and Dugdale against Mr. Whitebread; and therefore, gentlemen, there are two have sworn against him, besides Oates; and there is two against Mr. Fenwick at least; nay, there are three, for besides Oates there is Bedlow and Praunce; as to Mr. Harcourt, there is Bedlow, Dugdale and Praunce, besides Mr. Oates; as to Mr. Gavan, there is Oates and Dugdale; indeed there is none but Oates and Dugdale against Turner; so that as to the three first, however, there are two witnesses besides Mr. Oates, that is, against Mr. Whitebread, Mr. Fenwick, and Mr. Harcourt. Now as for Mr. Oates's testimony, and what they have to say to him; in the first place, they have brought a young gentleman, Mr. Hilsley, and he says he did not come over with him, and there it is one against one, but Dr. Oates hath sworn it, and hath given you such convincing circumstances how he lost his money, &c. so that I leave it to you which of the two is in the right, and ought to be believed. But then, my lord, as to the rest of the witnesses, here are a great many brought over to prove that Mr. Oates

was all the while at St. Omers; but I shall bring you a considerable number of witnesses to prove that Dr. Oates was then in London, and that all these persons are mistaken. They do all pitch upon the first of May to fix it upon a time wherein he says he was here in town: but, gentlemen, I hope you did observe, that as to other things and time that were not so necessary as to this matter, there they were pleased to mistake, and to differ one from another, to contradict one another; for some of them said he went away and left St. Omers the 10th day of June, others the 23d, others, which was the same Flemish gardener, that he staid till July. Truly half that variance in the time which is necessary would serve our turn, we are but for eight days time, that is, he was not above eight or ten days here; truly these gentlemen will be sure to speak punctually to all those eight days that hurt the prisoners, but they will vary thirty days at another time that hurts them not. Why may they not be mistaken as well with that portion of time, as they were in the other, wherein they so much differed one from another?—But I shall give you most infallible proof by and by, that Mr. Oates was in England at that time that he said he was in England. My lord, as to that of sir John Warner, truly we have sent for a witness, but we did not know of the objection before; they have now brought you the gardener, and he did say positively at first that sir John Warner was there all that while, but being asked again how he knew it, he said it was the talk of the country, and so some of the witnesses did speak to sir Thomas Preston. But then I did desire to know of these witnesses, whether these persons were never absent from these places or not, they told me they were absent for some time in the vacancy.

Gavan. That was in August.

Sir Cr. Levinz. You are very good at expounding, I know, but what those vacancies were I am not certain; but being apt to mistake a little, they might mistake the time too, and they might extend their journey beyond their vacancy. Mr. Gavan he hath made a mighty defence, I must confess, endeavouring to prove that he was out of town all June and July, and in April and May before, and truly he hath brought some witnesses that have spoken very far from him as to those months, but I will desire you to observe, as I know you did, that the three last witnesses that knew him very well did affirm positively that he was there the last week in July, but being asked to the week before that, and the week before that, they could not be positive. And, under favour, by that evidence you will believe rather that he was not there, for if so he they could so positively remember for the last week, why should they not be as positive for the two weeks before? Why, these two weeks were enough to serve our turn, for it was towards the latter end of July that which Mr. Oates hath sworn upon Mr. Gavan, that he was in town, and talked of the same matters which he

had written the letter about. And therefore it is much to be presumed, that because the witnesses will take upon them as to the last week, they are sure he was at Wolverhampton, but as to the two other weeks they could not be sure; that they speak with some conscience, and therefore it may be true that he was here. And the woman said she could not say but possibly he might make such a journey, and she never the wiser. So that under favour, gentlemen, all that which Mr. Gavan hath so industriously endeavoured to lay upon Mr. Oates, does shrink into a very slender evidence, and that it might well be he was at London at the time that Oates says, the three last witnesses speaking positively only to the last week in July.—Then truly, my lord, they are fixed upon another great matter to blemish Mr. Oates as to Mr. Ireland, a person that is dead and out of the way. Mr. Ireland hath been hanged upon that evidence, so far it was believed; but now after all this, will these gentlemen come to question the evidence that was given against Mr. Ireland. They have likewise, my lord, brought my lady Southcott, and some other persons, who give you an evidence concerning Mr. Ireland, that he should not be here at this time; but, gentlemen, under favour, Mr. Oates hath sworn before, and he hath now sworn it again, that Mr. Ireland was at that time in London, and, gentlemen, I will confirm him in that by another witness that did see him here in town at that time. And when you have two witnesses for the king upon their oaths come and testify it, I hope you will believe them, rather than other persons that testify only by hearsay. It was the matter then in issue, and had saved his life if it had been true; but though it be now settled, and none could think it would be again started, they would make that an objection; but by chance we have a witness still to give you satisfaction, that Mr. Ireland was in London at that time that Mr. Oates did swear him to be. We will begin with that witness about Ireland. And then we will call our witnesses to prove that Mr. Oates was in England, and did come over when he said he did. Call Sarah Paine. Who was sworn.

Sir Cr. Levinz. What time did you see Mr. Ireland in London? did you see him in August last?

S. Paine. I saw him about seven or eight days before I came to my Lord Chamberlain, and that was about a week before the king went to Windsor.

L. C. J. Where did you see him?

S. Paine. At his own door in Russel-street.

L. C. J. Did you speak to him?

S. Paine. No, I know him very well, and saw him as I came by.

Sir Cr. Levinz. Had not you carried many letters to him?—*S. Paine.* Yes, several letters.

Sir Cr. Levinz. Where did you live before?

S. Paine. I lived at Mr. Grove's.

Sir Cr. Levinz. Did not Mr. Ireland use to come there too?

S. Paine. Yes, he did often.

L. C. J. Was any one talking with Ireland then?

S. Paine. No.

Sir Cr. Levinz. How long did you look upon him? Did you see him go in? did you see his face or his back?

S. Paine. I saw his face, and made him a curtsy.

L. C. J. This she said to Ireland's face.

Justice Dolben. Your evidence is, that Mr. Ireland went out of town the 5th of August, and she says she saw him about that time, which must be the 12th or 14th of August.

Gavan. How does she prove it? She does not say she spoke with him.

Justice Dolben. She swears it.

Sir Cr. Levinz. Now we must prove what time the king went to Windsor.

L. C. J. Sir Thomas Doleman, what time in August did the king go to Windsor last summer?

Sir Tho. Doleman. I believe (I cannot charge my memory so well) it was the 13th, it was about the 12th or 13th.

L. C. J. Was my Lord Chamberlain there then?

S. Paine. My Lord Chamberlain went after the king.

L. C. J. And when do you say you saw Ireland?

S. Paine. I saw him seven or eight days before I went to my Lord Chamberlain's, which was before my lord went to Windsor, and that was a week after the king went thither.

Sir Cr. Levinz. Now I will tell you what she says; she says she saw Ireland a week before she went to my Lord Chamberlain's, and she saw him go into Grove's house, where he did usually go for letters; she says she saw his face, and made him a curtsy; and that this was a week before she went to my Lord Chamberlain's, and that was a week after the king went to Windsor. Now the time that Mr. Oates pitches upon is between the 8th and 12th of August, which by computation is the time she speaks of.

Gavan. And our witnesses go from the 3rd of August to the 14th of September.

Sir Cr. Levinz. Call sir Richard Barker, William Walker, Sarah Ives, &c.

William Walker was first sworn, and bid to stand up.

Sir Cr. Levinz. Pray, Sir, do you know that Mr. Oates was in England the beginning of last summer? Pray tell your whole knowledge.

Walker. Yes, my lord, I will. I have known Mr. Titus Oates these seven years, and had not seen him above five years; but about two years ago I did meet him in Newgate-market, and then again in the latter end of the month of March 1678, or the beginning of April, I did see Mr. Oates in a disguise in a gray serge coat, and I think a gray hat, but I did not understand it, nor did I know him to be the man; and I was very much troubled that I

could not recollect myself who he was, and I went to bed, and could not recollect who he was; but before I rose in the morning I did draw him within the scheme of my knowledge, that it was Titus Oates; and to confirm my judgment in that, I did go to a gentlewoman, whose name I did not know, but I went thither because it was the same place that I had seen him at a year before, to enquire what became of Mr. Oates, and how he did: and when I came to her (in the morning early, it was the next day after I had seen him in disguise) I enquired of the gentlewoman how Mr. Oates did, and she clapped her hand upon her counter, being a tradeswoman, 'O,' said she, 'he is 'an undone man?' 'Why so?' said I. Said she, 'He is turned to the church of Rome, and 'he absconds and hides himself, I know not 'where he is.' 'Then, in plain terms,' said I, 'I saw him later than you, for I saw him yesterday, between nine and ten of the clock, it 'was at the upper end of St. Martin's-lane, 'near Leicester-house.'

Sir Cr. Levinz. What time was this?

Walker. This was in April or March last was a twelvemonth.

L. C. J. Did you never see him more than then?

Walker. No, I knew his face so well, as I looked back upon him, and he looked back upon me, but it was with some kind of terror, and he did seem to abscond and hide himself.

L. C. J. When was this?

Walker. It was some time from the latter end of March to the middle of April.

L. C. J. Why did you skip the beginning of April?

Walker. I am not able to remember exactly the time; for why, I did never think to be called as a witness about it.

L. C. J. Did you speak to him?

Walker. No, my lord, I did not.

L. C. J. How long before had you spoke to him?

Walker. A year before, but in his canonical habit, and not before of five years.

L. C. J. North. You will not sure catch him upon a day.

L. C. J. But I will tell you what it does, it contradicts all that your boys, all your witnesses say: Though it does not go home exactly to the 24th of April, yet, if it be true, and we have no reason to believe it otherwise, it disproves all their evidence; for they charge him to have been at St. Omers all March, April, and May.

Sir Cr. Levinz. Swear Sarah Ives. [Which was done.]

Oates. My lord, we bring Sarah Ives to prove that this same gentleman went to her to enquire of her about me.

L. C. J. Pray Mrs. what did that minister say to you, and when, concerning Mr. Oates?

Ives. Mr. Walker came to my shop, and asked me when I saw Mr. Oates; said I, I have not seen him since he went beyond sea. Then, said he, I have seen him later than you, for I was

going to Leicester-fields, and at the end of St. Martin's lane I saw him in a disguise, and he looked wistly back upon me, and I upon him, and, said he, I am certain it was the man.

L. C. J. What time was this?

Ives. It was April was a twelvemonth.

L. C. J. What time in April, do you think?

Ives. I cannot say the day.

L. C. J. But what time of the month was it?

Ives. I do not know justly, I think it was the middle of April, or thereabouts.

L. C. J. Call another witness.

Sir Cr. Levinz. Call Mrs. Mayo. [Who was sworn.]

Sir Cr. Levinz. Well, what say you, when did you see Mr. Oates in England?

Mayo. I never saw his face till a week before Whitsontide, or a little after; there was a young man, a servant of sir Richard Barker's, that knew him a long time before; he came to me and said, Yonder is Mr. Oates hath changed his coat from a black to a white; what is he, said I, He was a minister, but he is either turned Quaker or Catholic. But, said I, he is not turned Quaker, for he wears a periwig, and he fell a laughing and jeering at him; said I, Why do you deride this gentleman, when he is a friend of sir Richard Barker's?

L. C. J. Where was Mr. Oates then?

Mayo. He was in the court-yard, and I was in the kitchen.

L. C. J. When was this?

Mayo. The week before Whitsontide.

L. C. J. In what month?

Mayo. It was in May.

L. C. J. Did you know him before then?

Mayo. No, I did not, but I had heard much of him in the family.

L. C. J. How soon did you see him again after that?

Mayo. About a week after he came and brought another with him, and walked into the garden, and seemed to be discontented that they did not shew such a countenance to him as they used to do in the house, for the gentlewomen had heard he was turned Jesuit, and therefore were very shy; that is, sir Richard's kinswomen, my lady's sisters' daughters.

L. C. J. Do you know Dr. Oates now?

Mayo. Very well, sir. Afterwards he came again and walked into the garden, and the young man I spoke of before, that is now dead, came again and took notice of him, of the strange garb he was in; he was in a room that looked into the garden, I saw him walking there and said he, Yonder is Oates again and hath brought another with him; he looked out of the window, and said he, Prithee look here, does not he look like a Jesuit? And he that was with him looked back, and if it had not been for that, and the young man's importunity, I had never taken notice of Mr. Oates. After when I heard he was come over and gave in his testimony about the Plot, I would needs go see him; but he spoke very slightly to me, and seemed to be offended with the family because they did scorn him. Said I, They had re-

reason to countenance you, because we all understood you were turned catholic. They did, said he, look very shy upon me. Why, said I, you must not be offended, for you know all the family are no friends to Jesuits, and I hope never will be so; but I hope, Mr. Oates, you will not forget eaten bread, because he used to be made very much of at sir Richard Barker's.

Sir Cr. *Levinz*. Is that the man that you saw there?

Mayo. This is the man, if you will put me to my oath again I will swear it.

Sir Cr. *Levinz*. When was this?

Mayo. It was the week before Whitsontide, it was in May, for Whitsontide fell in May.

Sir Cr. *Levinz*. Then call Philip Page. Who was sworn.

Sir Cr. *Levinz*. Do you know Dr. Oates?

Page. Yes, sir.

Sir Cr. *Levinz*. How long have you known him?

Page. I have known him four or five years.

L. C. J. Pray did you see him in the year 1678, last year?—*Page*. Yes, I did.

L. C. J. At what time?

Page. About the beginning of May.

L. C. J. Where?

Page. At sir Richard Barker's.

L. C. J. Were you acquainted with him before?

Page. I had spoke with him before.

L. C. J. How do you know it was he? did you speak with him then?

Page. Yes, I did.

L. C. J. What habit was he in?

Page. He had a light coloured campaign coat. I asked him, where he had been so long a time, that we had not seen him, but he turned away from me, and gave me no account, but after he had been in the house made back again, and away he went, after he enquired for sir Richard.

L. C. J. How do you know it was in May, why might it not be in April?

Page. It was in the beginning of May, to the best of my knowledge.

L. C. J. By what material circumstances do you remember it was in the beginning of May? Is there any thing that puts it into your mind more particularly?

Page. My master had a patient at that time, that was sick of a fever.

L. C. J. Where? at sir Richard Barker's house?

Page. At Islington it was.

Jury. We desire to know what the patient's name was, for some of us know Islington very well.

Page. I have forgot the name.

Sir R. *Barker*. It was Aldram Milrer's daughter.

L. C. J. It was about that time in May that you saw him?

Page. I did upon my oath, and I spoke with him, and took much notice of him, he had an old black hat on, that flapped, and a pair of Spanish-leather shoes.

Sir Cr. *Levinz*. Call sir Richard Barker. Who was sworn.

L. C. J. Do you know Dr. Oates?

Sir R. *Barker*. Yes, my lord, I have known his father and him ever since he hath been a child; I saw him the last summer.

L. C. J. About what time?

Sir R. *Barker*. At that time that they have given in evidence, I have only this to say, I was abroad, as my business leads me often abroad into the country, but they told me, Mr. Oates came to my house in a disguise, and that they believed he was turned either Quaker or Papist.

L. C. J. When was this?

Sir R. *Barker*. It was, my lord, to the best of my remembrance, after Whitsuntide that they told me, but they told me a story of him, how that he was in two several disguises, the one was a short hair, and then they thought he was turned Quaker, another time he had a long periwig, and then they thought he was turned Papist; and the first that told me, was this fellow here, that is a coachman of mine, who was mending something of his coach. It happened, my lord, upon the visiting of a gentleman, that I was very ill, in which time Mr. Oates was gone, and afterwards, when I was recovered again, he came to my house, to enquire concerning Dr. Tongue.

L. C. J. When did you see him first?

Sir R. *Barker*. It was, my lord, to the best of my remembrance, the latter end of June, or beginning of July, upon my recovery.

L. C. J. By the oath that you have taken, I would ask you one question, Did not you see him till June?

Sir R. *Barker*. No, my lord; but my servants told me, they had seen him in May, before Whitsuntide.

L. C. J. Did you see him in June?

Sir R. *Barker*. To the best of my remembrance, it was in June.

Then one *Butler* was sworn.

L. C. J. Come, do you know Dr. Oates?

Butler. Yes, very well.

L. C. J. How long have you known him?

Butler. I have known him these 3 years, before he went beyond sea.

L. C. J. Come, you are upon your oath, when did you see Dr. Oates, and where, the beginning of last summer?

Butler. I saw him the beginning of last May, at my master's house in Barbican.

L. C. J. Upon what occasion? What are you?

Butler. I am sir Richard Barker's coachman. And I was making clean my coach in the Gate-house, and in comes Dr. Oates, in May last was a twelvemonth, the beginning of May; with his hair cut off close cropt to his ears, in gray clothes, a gray coat like a shepherd's coat, a Yorkshire-gray; he asked me whether Dr. Tongue was within? I told him, no; nevertheless he went into the house, and immediately came out again, and seemed to be very much discontented, but said nothing at all to me, but passed by me, and went away.

L. C. J. And did you know him at that time he spoke to you first?

Butler. Yes, my lord, because I knew him three years before.

L. C. J. Could you have then called him by his name?

Butler. Yes, my lord, I could.

L. C. J. You say he came to enquire for Dr. Tongue, and was discontented that he could not see him?

Butler. He said nothing to me when he came out, but passed away as one that was troubled.

L. C. J. Did you see him afterwards?

Butler. Six weeks after I saw him; and then he had a long black coat and a periwig on.

L. C. J. But are you sure it was the same man?

Butler. I am, upon my oath.

Justice Dolben. Did you tell your master of his being there the first time?

Butler. I did tell sir Richard Barker of him, as soon as I saw him.

L. C. J. Sir Richard, how soon did he tell you Oates was first there?

Sir R. Barker. It was soon after, my lord.

L. C. J. Was it in May that he told you he had seen him?

Sir R. Barker. He told me as soon as ever I came home, in May, as I remember.

L. C. J. Did he tell you Mr. Oates was there by name?

Sir R. Barker. Yes, my lord, he did: and when he told me what habit he was in, I wondered at it.

Oates. There are several, my lord, that did see me at that time; but they are gone into the country; and I cannot have them now ready: if you please now to call Mr. Smith the schoolmaster of Islington. Who was sworn.

Sir Cr. Levinz. Do you know Dr. Oates?

Smith. Yes, very well.

Sir Cr. Levinz. Pray, Sir, how long have you known him.

Smith. He was my scholar at Merchant-Taylors-school, where I was usher.

Sir Cr. Levinz. When did you see him, the beginning of last summer?

Smith. I saw him in the beginning of last May, that is, 1678.

L. C. J. Where did you see him?

Smith. He dined with me at my house in Islington.

Justice Dolben. What, the boys at St. Omers now are gone?

L. C. J. Recollect yourself well: by the oath you have taken, did Dr. Oates in May was twelve-month dine with you?

Smith. Yes, my lord, he did; and it was the first Monday in May, as I remember.

Justice Dolben. And this you swear, directly and positively?

Smith. Yes, my lord, I do.

L. C. J. How long did he stay there?

Smith. He staid three or four hours after: and, may it please you, my lord, he was in a summer-suit, and a coloured ribbon, a green knot upon his shoulder.

VOL. VII.

L. C. J. What did you discourse about?

Smith. About his being in Spain and Flanders, and his travels.

L. C. J. Had you a long discourse with him?

Smith. Yes, I had.

L. C. J. Had you nothing about the times?

Smith. No, my lord, not a word.

L. C. J. Did you understand he had been turned Roman Catholic?

Smith. I did know it.

Jury. My lord, Did Mr. Smith see him any other time after that?

Smith. No, my lord, not in two months; to my remembrance, about the middle of August.

Sir Cr. Levinz. Call one Clay. Who was sworn.

L. C. J. Do you know Dr. Oates?

Clay. Yes, my lord, I do.

L. C. J. How long have you known him?

Clay. Ever since April last was twelve-month.

L. C. J. Was that the first time of your acquaintance with him?

Clay. Yes, at Mr. Charles Howard's.

L. C. J. Where were you there with him?

Clay. He lived in one corner of Old Arundel House.

L. C. J. How came you acquainted with him?

Clay. Truly I met him accidentally, at Mr. Howard's house.

L. C. J. How came you to come there?

Clay. I was there to visit Mr. Howard, as a friend.

L. C. J. Were you acquainted with him?

Clay. Yes, I was with Mr. Howard, and there I saw Dr. Oates.

L. C. J. When did you see him the second time?

Clay. The second time I think I saw him there too.

L. C. J. When was that?

Clay. That was in May.

L. C. J. North. How long was that after?

Clay. I think the other was in April.

L. C. J. And did you see him in May?

Clay. I saw him in May too.

L. C. J. What time of the month was it?

Clay. I cannot exactly speak to that, but it was in that month as I remember, I am morally certain of it.

L. C. J. And when did you see him after May?

Clay. I can't tell whether I saw him after May or not.

L. C. J. Is that the same man that you saw at Mr. Howard's, either in April or May?

Clay. Yes, my lord, it is the same man.

Sir Cr. Levinz. Then we have done with our Evidence.

L. C. J. Come, gentlemen, now what can you say to this? they have given you now their full Charge.

Oates. My lord, I have one thing more, I desire your lordship to take notice, this gentleman, Mr. Clay, is a priest in orders, as they say.

2 D

L. C. J. I will not ask him that question, but, Mr. Clay, are you a Papist?

Clay. Yes, my lord, I am so.

L. C. J. North. Come, what say you now, Mr. Whitebread, to this?

Whitebread. I have this to say; first, That at my last trial, when I pressed him to declare who had seen him, when he said he was here in town, he could name nobody, not one. I know afterwards he was examined at the Committee, and then he could name nobody neither. He said he was there privately at Mr. Grove's, and we can prove that he never did lie there in his life. And then he said absolutely, he had not seen much company, he staid but six days. Now this good Doctor does say that he saw him here in the latter end of March, or the middle of April, whereas he himself says he came over with Hilsley, the 24th of April.

L. C. J. He was landed here April the 17th, and the witnesses say, it was the latter end of April or beginning of May.

Whitebread. Mr. Oates expressly said, he staid here but six days, when he came over to the Consult.

L. C. J. Why, does not all this stand together?

Whitebread. No, my lord, how could this stand together? his coming over the 17th, and his being here a great part in May, whereas he says he was but six days?

L. C. J. Perchance Dr. Oates may not be precise enough; but look you here, these witnesses do not speak so exactly to a day or two, or three, or four, or five, but to the latter end of April: now, why might they not see him the latter end of April and the beginning of May, and yet stand very well with Mr. Oates's testimony, who says he was landed here about the 17th of April, and staid here about six or seven days? How nice would you have them be in that case? which, because they are honest, they will not be.

L. C. J. North. You make your defences to depend upon an uncertainty of time, which no mortal man can ever remember; besides, pray observe this, That Mr. Oates stands a good witness, till you impeach him by a fry out of your own schools, and they go to the whole months of June, and April, and May; now these all speak in contradiction to other witnesses, and so Mr. Oates is still an upright and good witness.

Whitebread. They say they did see him there every day, or every other day.

L. C. J. But sure I can as well tell, who saw him but once in such a month, and dined with him then, as any that saw him never so often: but here are five witnesses upon you in this point.

Whitebread. The one was told by his man, the other by his boy.

L. C. J. The coachman, and the boy, and the maid, and Mr. Smith did see him.

Justice Pemberton. The divine did see him, and went and told the woman that he had seen him, pray remember that.

L. C. J. North. Now the Evidence is concluded, say what you will for yourselves; and then we will observe what you object, upon our direction to the Jury, according to our consciences.

Gavan. My lord, then I say this for myself. We commit ourselves to God Almighty. We must compare the number, though ours were not sworn, yet there were sixteen of them, boys, young men, that conversed with him every day, and these witnesses speak but of one or two particular days: One says he dined with him, and another saw him in a disguise; but, my lord, in these very witnesses there is an apparent contradiction, because out of his own mouth (*ex ore tuo te judico*) they are contradicted. He says he came over upon Sunday, with Hilsley, which was the 20th of April, as I think, and staid here only a matter of six days. One of the witnesses says he saw him the first Monday in May. What signify the witnesses, though upon oath, that they saw him in May? How can he come over the 20th of April, and stay but six days, and be seen here in May? Before these can be reconciled, one of them must be false; and then, my lord, besides that which I first said, there is the number of witnesses, they are nothing in comparison with the number of ours. And then, my lord, secondly, if we should grant, that a lesser number should serve the turn, because they are sworn for the king, because they swear for the safety of the king, (whom God preserve, whatsoever becomes of me) and the other speak not upon their oaths, yet, my lord, this does not destroy nor touch at all that evidence that is brought against him, about the rector of Liege, sir John Warner and sir Thomas Preston. And though, it be granted, that all the others that spoke about Mr. Oates being at St. Omers be mistaken, and must not be believed, yet we have him still, by those six others, who have proved that he hath sworn false; and I hope we shall have fair play in the law, to make the best defence we can for our lives; and I humbly conceive, nobody must be convicted of High Treason by the law, but upon the evidence of two sufficient witnesses. Now I leave it to the conscience and honour of the court, whether he shall be believed and counted a sufficient witness, when there are so many that have proved him false in that one point? and then, besides all this, my lord, we have here sixteen, at least, Staffordshire witnesses, who give you an account of Mr. Ireland's being out of London, from the 3rd of August till the 14th of September; so that in these two things he hath been contradicted without any answer, for he says, the 12th of August he was with him, when they say he was in Staffordshire.

L. C. J. You have forgot the maid that saw him in London the 12th or 13th.

Gavan. No my lord, I have not. And this is it I answer to it, she is a witness that only says, she just saw him, but did not speak to him.

L. C. J. She made a curtsey to him.

Gavan. We are now talking of seeing Ireland in August; and we prove by sir John Southcott and all his family; who say they began their journey with him the 5th of August, and staid with him till the 19th, after the particular day that she speaks of, you find seven or eight of them swear that they saw him all the time. And therefore I would fain know, whether poor mens' lives shall be cast away upon such evidence as this? and then, my lord, for the other thing, I hope I have made a very good plea for myself concerning the matter of July; my witnesses could be positive as to the last week; but for the other weeks, though they could not be positive, they rather believed I was there, than not: But when it is urged, Why might not they give as good a testimony for the former weeks as for that? To this I answer fully, that there is a great and predominant reason why they should have a particular reason to swear, why I should be there the last week, rather than the other weeks, because I was then shut up in the spiritual exercise, and they had a particular reason to take notice of that. Then, my lord, I hope you will be pleased to mind this, by which I have made my plea good, that is, my lord, that Mr. Oates's testimony against me is this, Mr. Ashby came to town about the middle of July, and that he staid there about a fortnight, and that in the time of that fortnight I came to town, and said I would go see Father Ashby, and had that discourse he speaks of; and so much for that. And then, my lord, I beseech you still to bear it in your mind, that I have been proved not to be in town at the time of the great Consult about the Plot; and indeed I was not capable of it, for I was not then professed, and there could none be of that congregation about the plot, but those that were professed. I could not be there in the congregation, by reason of my age. Mr. Harcourt here, and the rest, if you will ask them, will tell you it, they were there, but, upon the word of a dying man, I was not there.

L. C. J. It is not positively said by Mr. Oates that you were.

Gavan. But then, my lord, he says my name was to it, which he saw in July; now I prove, that I was in Staffordshire the last week of July; and seeing I have witnesses to prove, that I was there till the 14th, and the last week, and it was after the 14th that he saw me, I hope my plea is good. Then, my lord, I ground my plea upon this, I have studied philosophy and other things, but I never studied the law, and so am very ignorant of it; but this is my case, I am accused by one witness concerning one fact, and by another concerning another; the one committed here at London, the other in Staffordshire; I desire, therefore, to know, whether the witness that swears the thing done in Staffordshire, and the other witness, that swears what was done in London, can be esteemed two witnesses, according to the law, to convict me of treason?

L. C. J. North. Yes, I will tell you, if it were

a matter of doubt, it might be found especially, and be argued, but it is a matter that hath been already resolved in the case of sir Henry Vane at the King's-bench bar,* who was indicted for levying of war against the king; and there one witness proved the levying war in one county, and the other proved the levying of war in another county; and so, though they were but single witnesses of single facts, yet being both came up to the Indictment, they were adjudged sufficient to maintain it. So it is in your case, here is one witness for the proving your hand to the paper which was for the murder of the king, and there is another witness of your discourse to the same purpose; the fact is your joining and conspiring to destroy the king, and to levy war against him, and both these are proved to the full of the indictment by these witnesses; and though they are to several particular facts, yet they are all overt acts of the same treason.

Gavan. My lord, I have a contrary opinion to that in serjeant Rolls.

L. C. J. North. But this is a known case, and the law is settled therein.

L. C. J. I will tell you what, you mistake in what you say, for there are two witnesses, Oates and Dugdale, who swear to the same fact, which is killing the king, altering the government, and bringing in popery: Oates says he saw your hand to the consult, for the murder of the king, for the raising of the army, and for the introducing of popery, which is a necessary consequence of change of government; Dugdale says he was with you in the parlour of my lord Aston's, where the discourse was between him and you, and others, about killing the king and altering religion. Are not these two witnesses to one and the same treason?

Gavan. No, my lord, I conceive not.

L. C. J. If I consult a way to kill the king here, and then I go into the country, and there I consult of it with another person, are not these two witnesses to the same treason? sure they are.

Gavan. Then, my lord, my second plea is this, If there be two witnesses, you will grant me this ground, that no man must be convicted but upon the evidence of two legal and credible witnesses, and upon clear evidence, as the statute since his majesty's happy restoration does declare. Now two things are required certainly to make a credible witness, and a clear evidence; as the witness must be credible, so it is as agreeable to reason that the evidence must be plain and clear, yea, as clear as the light of the sun at mid-day. Now, therefore, if I prove, that neither the witness is credible, such as the law requires, nor the evidence clear, such as the law looks upon as such, then I ought not to be convicted by this witness upon this evidence.

L. C. J. The jury are judges of that, and therefore there I leave it.

* See the fourth Resolution in his Case and the Note there, ante, vol. 6, p. 123.

L. C. J. North. You argue mighty subtly, but I will give you this answer; there must be two lawful witnesses, that is the law; a man cannot be impeached of treason but by two lawful witnesses; now if they be not convicted of perjury, and their testimony be not taken away, but they may be heard in a court of justice, they are lawful witnesses; now for their being credible witnesses, that is a matter that is left to the jury, but we must receive them as lawful witnesses till they be convict of a crime that takes away their testimony.

Gavan. Therefore because they are left to the jury I am satisfied, and I turn myself to you, gentlemen. You are to sit upon my life and my death: as for my own part, I can truly profess I am as innocent as the child unborn, and this gentleman Mr. Whitebread knows I was not capable of being at the consult, being not of age. Now I must leave myself to the jury, and will leave it to their judgments whether these two witnesses can be esteemed credible witnesses; for to make credible witnesses there is required honesty of life, and truth in their testimony, for no man can be a good witness that is not an honest man, nor that hath carried himself so that he is not to be believed. As to the honesty of Mr. Oates's life, you heard that he was disgusted by the Jesuits, esteemed not a person of that diligence or fidelity to be intrusted by them; he was turned out of St. Omers.

L. C. J. Does that prove any dishonesty in Mr. Oates?

Gavan. No, but I speak to his credibility.

L. C. J. Speak plain; how does it impeach Mr. Oates's evidence, that the Jesuits did not like him?

Gavan. It might be a ground of hatred and malice in him against them; and then, gentlemen, I desire you to consider that other thing, That we have proved him to speak false in his testimony about sir John Warner and sir Thomas Preston; and all the business of the 12th of August, concerning Mr. Ireland's being here the 12th of August, who by 16 witnesses, is proved to have been all the while in Staffordshire; and though he was not convicted of perjury before, which might have easily been done, as I have shewn to the whole world now, I appeal to the honour and conscience of the jury, whether all these proofs ought not to make this witness to be deemed an incredible witness. And pray, gentlemen, hear me this, and carry this away with you, as to the business of Ireland, between the 8th and 12th of August, how many do swear that he was in Staffordshire. I desire you but to compare that one woman that only saw him, and made a curtsey to him, as she says, with those 16 witnesses that conversed with him daily. Then as for the second testimony of the St. Omers witnesses, which you see is thwarted by some that do swear in the king's name to the contrary: Still I desire you to compare number with number: The others, though they do not swear, are ready to swear, and there are only three or four against

sixteen of them, and there is an evident contradiction in what they say, and that proved out of his own mouth; for he says he came over the 20th of April with Mr. Hilsley, and staid only six days; they say he was here in May, and I desire these may be compared: for how could it be that he should be here in May, if he staid but six days? And then to make your verdict, and take their credit away, I would desire you to consider those witnesses that I have brought for myself, not being here, but in Wolverhampton; for being in Staffordshire as long as to the last week of July, it must fall within the time of his testimony. I have brought witnesses to prove upon oath, that from the 22d upward they saw me in Wolverhampton, and they do remember the particular instance that I was then at my spiritual exercise: and this is that I have to say as to Mr. Oates. As for Mr. Dugdale, I would desire you to reflect upon the whole story of his coming to discover this plot, and his being an informer about it. The truth is, I confess I have known him five or six years, whilst he lived at my lord Aston's, and I have divers times discoursed with him there at Mr. Ewers's chamber; but, as I hope to be saved, never any thing of treason in all my life. Now, it is well known, and there are those that can testify it, that in good truth Dugdale run away from my lord Aston's after he had lost 300*l.* of my lord's money.

L. C. J. If you can say any thing against Mr. Dugdale by witnesses that you can prove it, then you say well; but if you will tell a story out of one Lord's mouth, and another Lord's mouth, that is never to be endured; you shall never take away a man's testimony by hear-say, you must prove it.

Gavan. It is well known, if I prove Dugdale no credible witness, I play my own game. You know I have been a prisoner twenty weeks, and could not seek out witnesses. I asked it as soon as I knew of my trial, but it was denied me to send for witnesses to prove that Dugdale was in gaol for debt. If I had the Recorder's Warrant or the authority of this bench, I could send for them.

L. C. J. You must not fall upon persons without evidence; if you have witnesses to prove any thing, whom the jury will believe, call them.

Gavan. I do assure your lordship, as I hope to see the face of God, I am innocent of what is charged upon me. And God bless the king and this honourable court.

L. C. J. Though you do an hundred times bless the king and court and all, you must prove things if you will be believed. What say you, Mr. Whitebread?

Whitebread. My Lord, I have but one thing to say, and it is but a word: Your lordship was pleased to make an observation, and a good one it was, a letter which Mr. Dugdale says was written by me to Mr. Ewers, which he says he intercepted; he was, in the mean time, a trusty correspondent for his friend. In that letter he swears, there was expressly contained

positive words of entertaining persons to kill the king, that only such as were hardy desperate and stout; but as your lordship well observed, that it was an improbable thing that a man who had his wits about him should write such plain expressions about such a matter; and upon that improbability I leave it to the Jury.

Justice Pemberton. Have you any thing to say, Mr. Fenwick?

Fenwick. I desire, my Lord, your lordship and the Jury to consider and observe the nature both of our witnesses, and of them that are brought against us. The one speak for the whole time, that they saw him every day, or every other day; they daily conversed with him, eat and drank with him in the same house; the others, they say only, they saw him in one particular day; another another; and one of them says he saw him, but in a disguise. Now, my lord, whether it be likely that so many innocent children, brought up in a good virtuous life, should come here to forswear themselves, to contradict people that we know not what they are; and then, besides, we know that these people are of a poor, mean, beggarly, condition, that intend to mend that condition by such a pretence of discovery, and hope thereby to advance themselves. It is probable such people might be drawn in. Then also we shall prove that sir John Warner did not come over with him, nor Mr. Williams nor sir Thomas Preston: Then all his witness as to them is false, and he does not say he went back with these people; and this for the witnesses. Now suppose the witnesses were all equal, what does he prove against us three? Or what reason doth he give of his evidence? He says he saw such and such letters from Mr. Whitebread. Now is it possible that a man that had no credit at all with us, that we should be such fools as to trust him with such letters as those, then your lordships must hang us twice, once for fools, and then for knaves. Or is it possible that we should be such egregious fools that we should trust a man that was never esteemed of; was expelled the college? And for all his talk of Commissions and Letters, there is not one of those found; let him shew any one commission, any money paid, or any order brought him, or any arms that were found; there are three quarters of a year now passed since the first discovery; certainly all this time could produce something: thousands of letters have been taken from us, some of those letters would have discovered this thing; certainly therefore we have better evidence than he hath, supposing them to be equal as to credibility in their original. Is it credible we should be so great rogues to contrive the king's death? Though he speaks of the writing being carried from chamber to chamber concerning this matter, he can never produce one paper signed by any one man's hand, nor can he produce any thing to attest his testimony. I leave this to your lordship's judgment whether this evidence be good; there is nothing appears in so much time, of any effect that is produced:

where were the armies? Where were the moneys paid? Where the commissions? Is it possible such a thing should be, and no sign of it for a whole year almost? There is no reason brought, amongst them all, but saying and swearing, and that I will stand by.

Whitebread. I thank God I don't look like a fighting man, nor I never did; but who can think that I should be so mad, when I had committed such a secret to him, to beat him as he says? It is strange that such a plot should be discovered wherein so many persons of quality, honour and reputation, are said to be concerned, and yet no footsteps of it appear? and none of them, as my lord Arundel, my lord Bellasis, should never divulge such a plot; I would fain know whether such a thing be probable, but I commend myself to God Almighty, and the Jury.

Harcourt. My Lord, I have only this to say; I have lived to this age, which is 70 years, and I never knew any man that could say I was accused of the thing in the world, for which I should be brought before any magistrate; and it is strange that after so many years I should come to be arraigned and condemned for a crime of the highest nature; and there is no reason brought against me nor any of the rest, for the proof of what is alledged, nor do they, who are the witnesses against us, deserve at all any credit. They only affirm such and such things without any reason, to persuade you to believe them, and it is easy to say, and so it is to swear it. So that all I have to say is this, since a negative cannot be proved, I hope innocency will find some that shall defend it. I leave myself to the Bench, for the law is the defence of innocency. If they did bring any evidence besides that, which is downright positive swearing, without any reason or concurrent reason to confirm it, it were something.

Fenwick. And besides all this, to think how these men have lived before time is worth reflection and considering. As for Bedlow, he hath been a very ill man, the world knows it.

L. C. J. Have you proved it? Can you shew any record of it?

Just. Pemberton. Turner, have you any thing to say? you have had your time.

Fenwick. You will find that 'Nemo repente fit nequissimus.' No man arrives at the highest degrees of impiety at first: Men grow extremely wicked by degrees. But let us see if they can blame our lives, or any thing that we have done at any time before; we prove, and all the world knows what they have been, and how scandalously they have lived.

Gazun. Our witnesses are to be regarded for their number and for their innocency, especially since they give no reason nor convincing arguments for what they do affirm.

L. C. J. We would hear you, and we have heard you very long, but it must not be permitted you to go over the same things again and again.

L. C. B. Hath Turner any thing to say?

Turner. All that I have to say, my lord, is

this, to ask whether it be reasonable that Bedlow and Oates should be looked upon as good witnesses, that these persons who have been such scandalous people should be admitted to an oath, who were debarred from the Sacrament; for according to the Church of England, no man that is publicly scandalous can be admitted to the Sacrament.

L. C. J. But you prove nothing.

Turner. I can prove it first by evidence of one Hastings.

L. C. J. Call him. [But he appeared not.]

L. C. J. Gentlemen of the Jury; Here hath been a very long evidence, and a very confused one; and you cannot expect, that it should be wholly repeated to you: For it is almost impossible for any one to remember it; neither would I if I could, because a great deal of it is impertinent, and vainly to be repeated: And besides, many things have been said over and over again, to no purpose. But I will observe to you, as well as I can, what Testimonies there are against each particular man of them; and that I do look upon to be very material. And I leave it to you, to judge and consider, how far the evidence is credible, and how far it is substantial.

Against Mr. Whitebread, you have the Testimony of three, Oates, Dugdale, and Bedlow: Against Mr. Fenwick, you have the Testimony of Oates, Bedlow and Praunce: Against Harcourt, you have Oates, Dugdale, Bedlow, and Praunce. You have against Gavan, Dugdale and Oates; and against Turner, Dugdale and Oates: So that, to the two last, you have two, three to the two first, and four to Harcourt.

Now, the matter that they have sworn, hath been all tending to one thing; the murder of the King, the advancing of Popery, and suppression of the Protestant religion: That is the thing that all the evidence does drive at.

For Dugdale, for aught we can perceive, he hath been upon the matter a stranger to Oates and Bedlow; and I do not find, that he had any correspondence with, or knowledge of them, at the time he charges Mr. Harcourt and Mr. Gavan. And he charges them with the very self same things, viz. the consulting the death of the king, and advancement of popery. And they have several instances of the facts, as their several consultations; how they met together, and where, or at what place. And Dugdale tells you of a letter that he found; wherein Whitebread gave charge for the entertainment of good stout fellows: No matter for gentlemen, so they were resolute. And so they have several mediums to prove one and the same thing.

Mr. Fenwick says to all this, Here is nothing against us, but talking and swearing: But for that, he hath been told (if it were possible for him to learn) that all Testimony is but talking and swearing: For all things, all mens lives and fortunes, are determined by an oath; and an oath is by talking, by kissing the book, and calling God to witness to the truth of what is

said. That is the essence of an oath, and those are the ceremonies: The kissing the book, and speaking, is the accidental form; the substance is, calling God to witness. Therefore what a vain thing is it in Mr. Fenwick to seem to triumph, by saying, There is nothing against us but talking and swearing. There is nothing against them, but evidence and proof of men upon oath: And their reasons, the truth is, are very trifles. They defend their lives as they do their religion, with weak arguments, and fallacious reasons.

For that long business, that Mr. Gavan hath undertaken to say against Mr. Oates, and what they all insist upon, viz. the number of their witnesses, which were sixteen, amounts to this, to disprove Mr. Oates that it could not be true what he says, That he should be present here at a consult, the 24th of April, because they have brought 16 from St. Omers to prove, That he was there all April and May.

It is very true now, if that be so, it is impossible Oates can swear any truth: but whether that is to be believed, or no, is the question. Methinks they did not do well for themselves, when they bid you remember the nature of the evidence. They did well enough to bid you remember the number: For the number is more than what Oates is backed with on the other side; but the nature is of much less weight: Not only because they are not upon their oaths, for by law they may not be upon their oaths (and that must not be charged on them as a defect, seeing they would swear, I doubt not, if they might;) but because their Testimony is really to be believed much alike without an oath, as with one; because they are of a religion that can dispense with oaths, though false, for the sake of a good cause.

But, seeing they desire the nature of the men may be considered, you are to observe, that they are proselytes, and young striplings of their church; which does indeed, in one respect or other, abuse all her disciples, and keeps them in a blind obedience, to pursue and effect all her commands.

If the doctrines of that church were better; if such which are allowed by their chief authors, were but less bloody and inhuman; if they had ever put those that are so, into an Index Expurgatorius, that they might have been publicly disowned, and declared as the particular opinions of some ill men, which they did disavow; these men might have been then more worthy to be regarded. But when none of their popes have done this (who must have very strange foreheads, if they say they have) and such doctrines are still owned, there is much indeed to be observed from the nature of the evidence, the nature of the men, and their profession.

I must confess, I believe that they would deny their principles to be bloody or to be defended and allowed by any of their best authors, if at this time the fear of apparent falsehood did not deter them; but if to murder kings, or to depose them and absolve their sub-

jects from their allegiance, for the advancement of religion, be a thing most impious, and void of religion, and makes religion worse than none; which doctrine yet they have owned, and their councils have owned, and we have proved it upon them, and out of them; I cannot tell what to say to these men, or their testimony; the nature of whom they desire to be considered.

But they were young boys, sent for hither on purpose to give this testimony; and it was not, indeed, a fault in the prisoners at the bar, to send for what evidence they could, for themselves: but it is very doubtful and suspicious, to have such green and flexible minds thus employed; and I must leave it to you, to consider how far these young men, trained in such principles, may be prevailed on to speak what is not true.

And now, if the king's evidence, after this, stood alone, it were yet something; but when you have Mr. Oates' testimony, as to this great matter of his appearing in April, confirmed by seven or eight witnesses, that speak so expressly to it, how will they answer it! do they make sir Richard Barker a person of no value? do they so little esteem the minister, that says I knew him though he was in disguise; and went and said it presently to a woman that he knew was acquainted with Oates? and asking her, when she saw Mr. Oates? and she saying, not a great while; he said, I saw him later than you; and says, he did know him: and this is confirmed still by sir Richard Barker, who tells you, that his men told him that he had been there. What should make them to acquaint their master so, if it were not so? or do you think it a thing maliciously prepared or invented to take away the lives of these men, that his men should tell him a story so long ago? if it be not true, to what purpose should they tell him so? and if it be true, it confirms the matter sworn against them.

There is he that was his companion, the Schoolmaster, that says, in the beginning of May wastwelvemonth, Mr. Oates dined with him at his house, sat with him four hours, discoursed of his travels into Spain and St. Omers, and there is the man that is a papist, if not a priest, that swears he saw him twice, about the middle of April, at Mr. Charles Howard's lodgings in Arundel House; so that here are seven witnesses, direct or circumstantial, to prove Mr. Oates to have been in London, in April and May, 1678.

But say they, This is but talking and swearing. Very fine! And the St. Omers youths is talking but not swearing. Ay! But then their numbers are not so many. That, gentlemen, I leave to you, for both cannot be true. The Testimony of Mr. Oates and the witnesses that he had to back himself withal, and to prove himself to be here, is inconsistent with what the young men say, that he was at St. Omers.

Now, if you observe, all these mens defence is in the circumstantial part of the evidence, in

watching and catching at what day, what hour and what month? How Mr. Oates reckoned false, so and so: if he came here about the 20th of April, how could they see him the 1st of May; and they think then, they have got such a mighty victory; but it is not so weighty an argument with protestants, after all their conceit, that is unanswerable, for here is the point, The matter of time is a thing that no man can so precisely charge his memory with, as that it should be too strictly the measure of your judgments about truth or falshood, by the mistake of seven or eight days. Examine yourselves, how often every day you do mistake things that have been transacted half a year ago, and err in point of time, taking one week for another, and one month for another; and though I must say, it is considerable, yet too great weight is not to be laid upon that.

As for that they insist upon so much, the coming over of sir Thomas Preston and sir John Warner, with Mr. Oates; it is true, three or four witnesses speak as to Sir John Warner, and some to sir Thomas Preston; and they say, they were both beyond sea when Mr. Oates came over, but if the sixteen be not to be believed in the first matter and if Mr. Oates does say true, notwithstanding all their evidence, that he was here such a time in April and May, then I will tell you what inference may naturally be; to wit, That they cannot want a witness to prove what they please: for I believe there is none of them all will make any bones of it.

I say gentlemen, if you are satisfied in your consciences, that the evidence on Mr. Oates his part, to that point (that is to say, seven witnesses ought to prevail with you, to believe he was here in those months (notwithstanding the sixteen witnesses, who say they saw him every day beyond sea, in April and May), their other evidence about his coming over with Preston and Warner will have no great weight: because the other is the great matter, by which they make the substance of their defence.

I am glad indeed to see a gentleman here, whose face I never saw before, and that is Mr. Dugdale. Upon my word he hath escaped well, for I find little said against him, very little either as to the matter or the manner of his Evidence. They would have made reflection on him for his poverty, but I hope that they, whose religion is to vow poverty, will never insist on that for any great objection against any.

L. C. J. North. Your lordship hath forgot that he said he gave away 3 or 400 pounds to them.

L. C. J. But I will challenge all the papists in England, to satisfy any man that hears me this day of one piece of evidence, which will turn every protestant's heart against the papists. If so be they murdered sir Edmundbury Godfrey, the plot even by that, is in a great measure proved upon them by that base murder. And what can be a plainer proof of it, than the evidence of this day, which Mr. Dugdale pro-

duces? We had notice, saith he, on Monday night, that on the Saturday before it, sir E. Godfrey was killed; (which falls out to be that very Saturday he was first missing;) which notice was given in a letter writ by Harcourt to Ewers, another priest, that same Saturday night, wherein were these words, 'This night sir E. Godfrey is dispatched;' and I am sure, if this be true, then no man can say, but they murdered him.

Whitebread. It is not alledged against any of us.

L. C. J. It is in evidence of the plot in general, and to Harcourt in particular.

Harcourt. He never shews the letter that he says I writ.

L. C. J. He says that he used to peruse the letters, and that Ewers had this again, after he had perused it; he says also he has received at times, a hundred letters from you, and this among the rest. Now the question is, Whether it be true, or no? To make it out, he produces Mr. Chetwyn, whom I hope you will not deny to be a gentleman of one of the best families of his country, and of honest reputation; who says, That on the Tuesday following that Saturday sir E. Godfrey was missed, he and another were talking together in Staffordshire, and that the other person asked him, If he knew of the death of any justice of the peace at Westminster; and when he told him, he had heard of no such thing; No; said he, that is strange, you living sometimes about Westminster; for, said he, The wench at the alsehouse says, That this morning Mr. Dugdale said to two other gentlemen, there was a justice of peace at Westminster killed; and Mr. Dugdale swears, that was sir E. Godfrey. Now, if Dugdale be fit to be believed, that he saw such a letter, as he must be if he be not a very great prophet, to be able to foretel this; or if the maid that said this did not invent it (a thing then impossible to be done), or Mr. Chetwyn feigned that he heard the man make his report from the maid; this thing could not come to pass, but by these men. Nay, if Mr. Dugdale could not do as great a miracle as any are in the Popish Legends, how could he tell, that it was done on the same night when it was done at London? or speak of it on the Monday night after, when it was not known in London till the Thursday following? This will stick, I assure you, sirs, upon all your party.

For my own part, this evidence of Mr. Dugdale's gives me the greatest satisfaction of any thing in the world in this matter; and whilst we rest satisfied in the murder of that man, and are morally certain you must do it, knowing of what principles you are, you cannot blame us, if, upon such manifest reasons, we lay it upon you.

And this is occasional evidence, which I, for my part, never heard before this day; nor can I be more, or better satisfied; than I am upon this point, viz. the testimony that I have received this afternoon, concerning the murder of sir E. Godfrey. As to the defences they

have made, they are exceptions in point of time, but do not affect Mr. Dugdale; for they have hardly the confidence to deny the things he says to be true against them.

They fall foul, indeed, upon Mr. Oates: He appears to have been their agent; and whilst so, bad enough: but if he had not had a mind to have become a good man, he would not likely have done us that good that he hath done, in discovering the design you had engaged him in. Let any man judge, by your principles and practices, what you will not do for the promoting of the same.

For while this gentleman's blood lies upon you (and some have been executed for it), it must be yet farther told you, that in what you did do, you have given us a specimen of what you would do. We have a testimony, that for promoting your cause, you would not stick at the Protestants blood. You began with sir E. Godfrey, but who knows where you would have made an end! It was this one man you killed in his person, but in effigy the whole nation. It was in one man's blood your hands are embued; but your souls were dipt in the blood of us all. This was a handsel only of what was to follow; and so long as we are convinced you killed him, we cannot but believe you would also kill the king. We cannot but believe you would make all of us away that stand in the way of your religion: a religion which, according to what it is, you would bring in upon us; by a conversion of us with blood; and by a baptism with fire. God keep our land from the one, and our city from the other!

To return: The Letter that is found in Harcourt's papers, does further confirm Mr. Oates in all the great and considerable matters that he says; that there was a Plot; that that plot was called by the name of a Design, which was to be kept close and secret: and this is an evidence that cannot lie. For that letter will never be got off, no more than the other letter, that Mr. Dugdale speaks of about sir E. Godfrey.

And thus I leave it to you, gentlemen: You have heard how many witnesses they have had for them, about 24 or 25, of one sort or another. You have heard what they apply their testimony unto, to convict Mr. Oates of falsehood in matter of time; which was their principal defence: that he was not here in April and May, and that he came not over with sir Thomas Preston, and sir John Warner, and that Ireland was not here all August. You have heard what witnesses Oates is backed withal, as to the time of his being here: and the maid says, she saw Ireland here in August.

However, though their defence depends but upon a point of-time, I must tell you, it ought to be well considered, for it is indeed very considerable towards their defence; and God forbid but we should be equal to all men.

And so I have remembered, as well as I can, in this long and perplexed Evidence, that which seems to me most material, as to their charge

or discharge; and that which they have made their greatest defence by the youths from St. Omers, to disprove Mr. Oates his being here, and Mr. Ireland's not being in London in August, which in truth is not the proper business of this day, but hath received a former verdict before; for if so be the jury before had not been satisfied of the truth of that, they could never have found Ireland guilty. So I leave it to you upon the whole matter. I can remember nothing besides. Go together, and consider of your verdict, according to your evidence.

L. C. J. *North.* Gentlemen, my lord hath repeated it so fully to you, that I shall not need to add any thing to it.

Then an officer was sworn to keep the Jury, who withdrew; and the judges also went off from the bench, leaving Mr. Recorder, and a competent number of commissioners there, to take the verdict; and about the space of a quarter of an hour, the jury returned, and answered to their names, and gave in their verdict thus:

Cl. of the Cr. Gentlemen, are you all agreed of your verdict?

Omnes. Yes.

Cl. of the Cr. Who shall say for you?

Omnes. Foreman.

Cl. of the Cr. Thomas White alias Whitebread, hold up thy hand. You of the jury, look upon the prisoner: How say you? Is he Guilty of the high-treason whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. What goods or chattels?

Foreman. None, to our knowledge: [And so severally of the rest.]

Which verdict being recorded, in usual form, Mr. Recorder spoke to the Jury thus:

Gentlemen, you of the Jury, There hath been a long evidence given against the prisoners at the bar: they were all indicted, arraigned, fairly tried, and fully heard for high-treason, depending upon several circumstances. They can none of them pretend to say (and I take the liberty to take notice of it, for the satisfaction of them, and all that are here present, and all the world), that not a person among the prisoners at the bar were either wanting to themselves to offer, or the court to them to hear any thing that they could say for themselves. But upon a long evidence, a full discussing the objections made against it, and a patient hearing of the defence they made, they are found guilty: and I do think, that every honest man will say, that they are unexceptionably found so; and that it is a just verdict you have given.

And then the Prisoners were carried back to Newgate,* and the court adjourned till eight next morning: when the court proceeded to the Trial of Richard Langhorn.

* See the Account of their Sentence and Execution at the end of the next Case.

252. The Trial of RICHARD LANGHORN, esq. at the Old Bailey, for High Treason: 31 CHARLES II. A. D. 1679.*

UPON Saturday the 14th of June, 1679, at the Sessions-house in the Old-Bailey, London, the Court, according to their adjournment the preceding day, met, and proceeded to the trial of Richard Langhorn, esq. in this manner:

Cl. of the Cr. Set Richard Langhorn to the bar. Richard Langhorn, hold up thy hand: (Which he did.) Thou standest indicted in London by the name of Richard Langhorn, late of London, esq.

“For that you Richard Langhorn the elder, as a false traitor of the most illustrious, serene, and excellent prince, Charles the second, by the grace of God, king of England, Scotland, France, and Ireland, defender of the faith, your supreme and natural lord, not having the fear of God in your heart, nor weighing the duty of your allegiance, but being moved and seduced by the instigation of the devil, the cordial love, and true, due, and natural obedience, which true and faithful subjects of our said sovereign lord the king, towards him do and ought to bear, altogether withdrawing, and devising, and with all your strength, intending

the peace and common tranquillity of this kingdom to disturb, and the true worship of God within this kingdom used, and by law established, to overthrow, and sedition and rebellion within this kingdom to stir up and procure, and the true love, duty and obedience, which true and faithful subjects of our said lord the king, towards him, do, and of right ought to bear, to withdraw, relinquish, and extinguish; on the 30th day of September, in the 30th year of his majesty's reign, at London, in the parish of St. Dunstan's in the West, in the ward of Farringdon without, London, aforesaid, falsly, maliciously, subtilly, and traitorously, with many other false traitors of our sovereign lord the king unknown, did purpose, compass, imagine, intend, consult and agree, to stir up sedition and rebellion within this kingdom of England, against our said sovereign lord the king, and a miserable slaughter amongst the subjects of our said lord the king, of his kingdoms of England, to procure and cause, and our said sovereign lord the king, from his kingly state, title, power, and government of his kingdom of England, totally to deprive, depose, and disinherit, and our said sovereign lord the king to death and final destruction to

* See the Trial of John Tasborough and Anne Price in February, 1680 *infra*.

bring and put, and the government of this kingdom to subvert and change, and the true worship of God in this kingdom by law established and used to alter, and the state of this kingdom in all the parts thereof well instituted, totally to subvert and destroy, and war within this kingdom of England to procure and levy, and the same most wicked treasons, traitorous imaginations, purposes, compassings, and agreements aforesaid, and to perfect and fulfil: you the said Richard Langhorn afterwards, to wit, the 30th day of September, in the 30th year aforesaid, and divers other times before, at London, &c. falsely, advisedly, maliciously, subtilly, and traitorously, did compass, contrive, and write two letters, to be sent to certain persons unknown at Rome, and at St. Omers, in parts beyond the seas, to procure the adherence, aid and assistance of the pope, and of the French king, and others, to you the said Richard Langhorn, and other false traitors unknown, the true worship of God within this kingdom of England, by law established and used, to the superstition of the Church of Rome to alter, and the government of this kingdom of England to subvert, and our said sovereign lord the king to death and final destruction to bring and put; and that you the said Richard Langhorn, in further prosecution of the said treason, traitorous imaginations, intentions, and agreements aforesaid, on the day and year aforesaid, and the said other days and times before at London, &c. did compass, contrive, and write, two other Letters to be sent to Rome, in parts beyond the seas, to one Christopher Anderton, then rector at the English college at Rome aforesaid, and two other letters to be sent to St. Omers, in parts beyond the seas, to diverse persons unknown there residing, and by the said respective letters traitorously you did advise the said pope, and Christopher Anderton, and other persons unknown residing beyond the seas, of the ways and manner to be taken for accomplishing the said most wicked treasons, for altering the true worship of God in this kingdom established and used, to the superstition of the Church of Rome, and for subverting the government of this kingdom, and for the death and destruction of our said lord the king, and to the intent that the said Christopher Anderton, and others unknown, should give their aid, assistance, and adherence, and should procure other aid, assistance, and adherence, to you the said Richard Langhorn, and other false traitors unknown, to alter the true worship of God aforesaid, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England, and to put our said sovereign lord the king to death; and that you the said Richard Langhorn afterwards, to wit, the day and year aforesaid, at London, &c. traitorously did deliver the letters aforesaid, to be sent to the said Christopher Anderton, and others, persons beyond the seas, to perfect the traitorous purposes aforesaid; and that you the said Richard Langhorn, further to fulfil

and accomplish the same most wicked treasons, traitorous purposes, and the same most wicked treasons, traitorous imaginations, purposes, and compassings aforesaid, afterwards the said 30th day of September, in the 30th year aforesaid, at London, &c. five commissions in writing, made by authority derived from the See of Rome, for constituting military officers, for leading the forces to be levied in this kingdom against our said sovereign lord the king, for the altering the Protestant reformed religion to the use and superstition of the Church of Rome, and for subverting the government of this kingdom of England traitorously you did receive, and five other commissions in writing, made by authority derived from the See of Rome, for constituting civil officers for governing this kingdom after the most wicked treasons and traitorous imaginations, purposes and compassings aforesaid were fulfilled and accomplished, then and there traitorously you did receive. And that you the said Langhorn, afterwards, to wit, the day and year aforesaid, at London, &c. the said several commissions so received, to divers false traitors of our sovereign lord the king unknown, falsely, knowingly, and traitorously, did distribute, give and dispose for constituting officers, as well military as civil to the traitorous purposes aforesaid. And that you the said Richard Langhorn, afterwards, on the day and year aforesaid, at London, &c. a commission to constitute and authorize you to be advocate-general of the army, to be levied in this kingdom, to war against our said sovereign lord the king, falsely, traitorously, and against the duty of your allegiance, from a certain person unknown, did receive and had; and the same commission then and there falsely, advisedly, and traitorously, did inspect and read, and in your custody keep; and to the same commission traitorously did give your consent, to the intent that you the said Richard Langhorn should have and execute the place and office of advocate-general of the army aforesaid, after the army aforesaid should be raised against our said sovereign lord the king, by you the said Richard Langhorn, and other false traitors unknown, in execution of the said traitorous compassings, imaginations, and agreements aforesaid. And that whereas William Ireland, John Grove, and Thomas Pickering, and other false traitors of our sovereign lord the king unknown, on the 24th day of April, in the 30th year aforesaid, in the county of Middlesex, did consult to bring and put our said sovereign lord the king to death and final destruction, and to change and alter religion in this kingdom of England, rightly and by law established to the superstition of the Church of Rome, at London, &c. had notice of that consultation; and the same consultation for the destruction of the king, and for the alteration of religion in this kingdom, rightly established, to the superstition of the Church of Rome, and the treasonable agreements had in that consultation, on the said 30th day of September, in the 30th

year aforesaid, from our said sovereign lord the king, advisedly and traitorously did conceal, and to that consultation traitorously you did consent. And the said William Ireland, John Grove, and Thomas Pickering, on the day and year last aforesaid, at London, the treasons aforesaid to perpetrate and perfect, maliciously, subtilly, and traitorously, you did abet, counsel, maintain, and comfort. And that you the said Richard Langhorn, afterwards, to wit, the said 30th day of September, in the 30th year aforesaid, at London, &c. falsely, subtilly, and traitorously, you did move and solicit the Benedictine monks (unknown) to expend and pay the sum of 6,000*l.* to procure a person traitorously to kill and murder our said sovereign lord the king. And whereas Edward Coleman, and other false traitors of our said sovereign lord the king unknown, on the 29th of September, in the 30th year aforesaid, in the county of Middlesex, traitorously had conspired and consulted to procure rebellion and sedition, within this kingdom of England, against our said sovereign lord the king, and him from his kingly state and government of this his kingdom of England to deprive and disinherit, and to bring and put him to final death and destruction, and the government of this kingdom of England to alter, and the true religion in this kingdom of England, by law established, to alter and change. And whereas he the said Edward Coleman had traitorously written four letters to M. la Chaise, then counsellor of the French king, to procure the aid, assistance, and adherence of the French king, to perfect and accomplish the traitorous imaginations aforesaid, you the said Richard Langhorn afterwards, to wit, the said 30th day of September, in the 30th year aforesaid, at London, &c. well knowing the treasonable matters in the same letters contained, to the same letters did consent, and then and there falsely, subtilly, advisedly, maliciously, and traitorously, did abet, counsel, maintain, and comfort the said Edward Coleman, to perpetuate and accomplish the treason aforesaid, against the duty of your allegiance, against the peace of our sovereign lord the king, his crown and dignity, and against the form of the statute in this case made and provided."

Cl. of the Cr. How sayest thou, Richard Langhorn, art thou guilty of this High-treason whereof thou standest indicted, or Not Guilty?

Langhorn. Not Guilty.

Cl. of the Cr. Culprit how wilt thou be tried?

Langhorn. By God and my country.

Cl. of the Cr. God send thee a good deliverance.

Then the Petty Jury impannelled for this Trial was called, the prisoner put to his challenges, but challenging none, the twelve sworn were these: Arthur Yong, Edward Beeker, Robert Twysford, William Yapp, John Kirkman, Peter Pickering, Thomas Barns, Francis Neeve, John Hall, George Sitwell, James Wood and Richard Cawthorne.

After which, Proclamation for information was made in the usual manner.

Cl. of the Cr. Richard Langhorn, hold up thy hand [Which he did]. You of the jury look upon the prisoner, and hearken to his cause: He stands indicted in London by the name of Richard Langhorn, late of London, esq. for that as a false traitor, &c. [put in the Indictment *mutatis mutandis*] and against the form of the statute in that case made and provided. Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty; your charge is to enquire whether he be guilty of the High-Treason whereof he stands indicted, or Not Guilty. If you find him guilty, then you are to enquire what goods or chattels, lands or tenements, he had at the time of the High Treason committed, or at any time since. If you find him Not Guilty, you shall enquire whether he fled for it. If you find that he fled for it, you are to enquire of his goods and chattels, as if you had found him guilty. If you find him Not Guilty, nor that he did fly for it, say so and no more, and hear your evidence.

Then Roger Belwood, esq. of counsel for the king in this cause, opened the Indictment thus:

May it please your lordship, and you gentlemen of the jury; The prisoner at the bar, Mr. Langhorn, stands indicted of High-Treason, and it is for conspiring the murder of the king and endeavouring an alteration in the government in church and state. And the Indictment sets forth, that the 30th of August, in the 30th year of the king, he and other false traitors did agree to stir up sedition and rebellion in the kingdom, and to cause a great slaughter of his majesty's subjects; to introduce the superstition of the church of Rome, and depose and murder the king, and to alter the government in church and state. And it is there said, that to accomplish these evil designs he writ two letters to be sent to Rome and St. Omers; the effect of which letters was, to procure the assistance of the Pope and the French king, to alter the religion established by law in this kingdom to Romish superstition, to subvert the government, and to put the king to death; and that in further prosecution of these traitorous designs he writ two other letters to be sent to Rome, to one Christopher Anderton, rector of the English college, and a Jesuit; and two others to be sent to St. Omers; and in these letters he took upon him to advise the way and means by which these treasons might be effected, and that these several letters were sent and delivered by him, and received. The Indictment further sets forth, that in further prosecution of these traitorous imaginations of his, he did receive five several commissions in writing, by authority derived from the see of Rome; and those were for the making of military officers, to execute these treasons by force of arms, and that he did likewise receive five other commissions for constituting civil officers in this realm, after the treason was committed. And that amongst the rest he did receive for

himself one commission to be Advocate General of the army that was to be raised. And the Indictment further charges upon the prisoner, that to accomplish these treasons, whereas Ireland, Pickering and Grove, and other false traitors, liad consulted these treasons, which I before mentioned, Mr. Langhorn had notice of the treasons, and did consent to them, and abet them, and that he did solicit the Benedictine monks to advance 6,000*l.* for the murder of the king, for the alteration of religion, and for the subversion of the government in church and state. And further, whereas Mr. Coleman (who was executed for treason) had (with others) conspired the death of the king, and the introducing of popery, and had writ a letter to the French Confessor La Chaise, for aid and assistance, that the prisoner at the bar had notice of this, and that he did consent to it, and did abet it. This, gentlemen, is charged to be traitorously and devilishly done against the prisoner's allegiance, and the form of the statute. To this he hath pleaded Not Guilty; but if we prove these treasons, or any of them, you are to find him Guilty.

Then Sir *Creswell Levinz*, one of his Majesty's Learned Counsel in the law, opened the Charge thus:

May it please your lordship, and you gentlemen of the jury; Mr. Langhorn is indicted for treason, for having a part in that general treason that you have heard several times before of, and some persons there were indicted, tried, and convicted yesterday, for that treason that Mr. Langhorn had an hand in: for the Indictment does set forth, that there were letters written by him to Rome to the same purpose, of which gentleman you have heard so often, and will hear again.

This Treason was no less than to murder the king, to alter the religion, to overturn the law, to raise an army by force to effect all this, and in short to do all the mischief that men (if it be lawful to call such creatures men) could do. That there was, in order to this, a consultation held the 24th of April among the jesuits; and there it was resolved that the king should be killed, there were persons appointed to do it, that was Pickering and Grove, but they failed therein, and they prosecuted it at Windsor; but happening to fail there also they followed him to Newmarket, and ordered that it should be done there: And when all this failed, they took another course, his majesty was to be poisoned; and as I said before, to make all this good, an army was to be raised of 50,000 men in England, to perfect this work; but if that would not do, they were to have forces from beyond sea to join with them: and Mr. Langhorn he writ letters to procure these forces, and he not only did so, but he found the effect of his letters, and received commissions from beyond sea, whereof one was for himself, to be Advocate-General of the army. All these things are laid to Mr. Langhorn's charge. But I will begin first, and shew you, before I

come to the particular evidence against Mr. Langhorn, some evidence of the general Design; and therefore we will call some witnesses to do that in the first place, and then bring it down to Mr. Langhorn himself.—Call Mr. Dugdale and Mr. Praunce. (Who were both sworn, and Mr. Dugdale first stood up.) Come, Sir, what do you know of any design to murder the king? Speak what you know concerning the plot and conspiracy.

Dugdale. I was in several consultations for alteration of this present government, and for the introducing of popery, and for the murder of the king. I was a person in most of the consultations to the same purpose, and heard the very words used, and was hired to be instrumental in it, and was to have a sum of money to be one of them that should do it. I was to be an actor in it, and was to have a place appointed to do it.

Just. Atkins. What were you hired to do?

Dugdale. I was to kill the king.

Sir Cr. Levinz. And who were the persons that put you upon it?

Dugdale. There was Mr. Ewers, Mr. Gavan, Mr. Luson, and Mr. Vavasor.

Sir Cr. Levinz. What were these men?

Dugdale. They are all jesuits.

Sir Cr. Levinz. Do you know of any army that was to be raised to effect it?

Dugdale. They always did speak of an army that was to be raised, but it was not actually to be done till the king was killed; that was the last conclusion: It was indeed first concluded on to raise an army, but the last consultation was, that there should no arms appear till the king was killed.

Sir Cr. Levinz. You do not know any thing of Mr. Langhorn in particular, do you?

Dugdale. No, I do not know any thing particular, I have heard of him.

L. C. J. North. Why, you brought him only to prove the general design.

Dugdale. There was a massacre to be, and then there should be an army, a pretty good considerable army, there was no certain number that I could hear of; but those that did escape the massacre should be cut off by the army.

L. C. J. North. Where were these consultations?

Dugdale. One was at Tixall, another was at Boscobel, at my lord Aston's, and Mr. Gerard's.

L. C. J. North. Where were these places?

Dugdale. In Staffordshire.

Just. Atkins. Pray, who were to be massacred in the first place?

Dugdale. All protestants, and those we could not be sure to be papists.

Mr. Belwood. Pray, Sir, what do you know of any letter to be writ to Mr. Ewers, concerning sir Edmundbury Godfrey's death?

Dugdale. I do remember a letter that came to Mr. Ewers, from Mr. Harcourt, which did express, and begin thus, 'This very night sir Edmundbury Godfrey is dispatched'; with some other words of like import; and then I sent to

Mr. Ewers about it: and do you think this will carry on the design? I will be hanged if it don't spoil it: No, said he, he was a person that used to be very severe against debauched lewd persons, and so it will be laid, as if they had done it out of revenge.

L. C. J. *North*. What day of the week was that letter dated.

Dugdale. It was, as I can very well make it out, on Saturday.

L. C. J. *North*. And when was it received?

Dugdale. It was received on Monday night.

L. C. J. *North*. What were the contents of it, do you say?

Dugdale. It began thus, 'This very night sir Edmundbury Godfrey is dispatched.'

L. C. J. *North*. Who did it come from?

Dugdale. It came from Mr. Harcourt.

Sir Cr. *Levinz*. They themselves know that he was not found here in London, till Thursday.

Dugdale. I could not hold, it run so much in my mind, but the next morning going to an ale-house hard by, I there spoke of it, and immediately it was carried to Mr. Chetwin, and he was here yesterday to make it out, that I so did.

L. C. J. *North*. But why did they kill him? Was it expressed why?

Dugdale. I had several times heard he was too much privy to their consultations.

L. C. J. *North*. That is, you mean, he had too much discovered to him.

Dugdale. And so they were afraid of Mr. Coleman too, that he carried things too high; and he was out of their favour for two years.

Sir Cr. *Levinz*. Then call Mr. Praunce; Pray sir, what can you say?

Praunce. There was one Mr. Messenger, a gentleman of the horse to my lord Arundel of Wardour, who was employed by my lord and my lord Powis, and he was to kill the king, and to have a very good reward for the doing of it; And I was told so by my lord Butler: I afterwards met with this Messenger, and asked him what his reason was that he would kill the king. He told me, he was off of it now.

Sir Cr. *Levinz*. But what was to be done after they should kill the king?

Praunce. Presently there should be an army of 50,000 men raised, to be governed by my lord Arundel, and my lord Powis, and them: I have heard Mr. Fenwick, and Mr. Ireland, and Grove, to speak of this at the same time together.

Sir Cr. *Levinz*. What was that army to be raised for?

Praunce. To settle the catholic religion.

L. C. J. *North*. What was to become of other persons?

Praunce. They were to be killed and ruined all: So Fenwick told me.

L. C. J. *North*. Look you, Mr. Langhorn, these witnesses speak nothing to you in particular, but only that there was a conspiracy in general, to kill the king, and introduce popery: If you will ask them any question, you may.

Langhorn. No my lord, they not accusing me, I have nothing to say to them.

Praunce. I heard one Mr. Harcourt say, that the king was to be killed by several, before one Mr. Thompson, twice in his own chamber in Duke street. And I heard Fenwick say that Mr. Langhorn was to have a great hand in it.

Langhorn. Is that all you have to say as to me?

Praunce. It is all I know of.

Then the Lord Chief Justice Scroggs came in.

Sir Cr. *Levinz*. Now, my lord, we will call the evidence, that shall prove the particular matters of the indictment, as of writing the letters beyond sea, of his receiving commissions, of his distributing them here to the several persons to whom they were directed; of his soliciting for the money, the 6000*l.* to be raised by the Benedictine monks, which was either for a particular purpose to poison the king, or to carry on the design in general. And first we call Dr. Oates. Who was sworn, and stood up.

Sir Cr. *Levinz*. Sir, you hear what the matter is, as to Mr. Langhorn, be pleased to tell the court, whether you knew he writ any letters, and received any commissions; speak your whole knowledge.

Oates. I hope your lordship will be pleased to give me leave to use my own method.

L. C. J. Ay, ay, take your own way, Mr. Oates.

Oates. Then I begin thus; In April 1677, I went into the kingdom of Spain: In September following, the sons of Mr. Langhorn came into the kingdom of Spain: It was September, or sooner, but I will not be positive as to the time of their coming; the one was a scholar of the English college at Madrid, the other was a scholar of the English college at Valladolid. They came there to study philosophy, in order to their receiving of the priesthood. My lord, my occasions called me into England, in November following; and coming into England, Mr. Langhorn's sons did give me some letters to Mr. Langhorn their father; and as soon as I had rested myself for a day or two, after my journey, I came to Mr. Langhorn's house in Sheer-lane. Now Mr. Langhorn's wife, being a zealous protestant, I did whisper his foot-boy, or his servant-boy, in the ear, that he should go and whisper his master, Mr. Langhorn, and tell him there was one would speak with him from his sons. Mr. Langhorn, by his son, did desire me, to meet him at his chamber in the Temple, (in the Inner Temple-lane, it was I think) I know the chamber, however; and accordingly I did meet Mr. Langhorn that night, by the means of his half-brother, who is brother, I think, by the mother, and not by the father, his name is Smithson; and when I came into Mr. Langhorn's chamber, their chambers being directly opposite one to another, I was treated by Mr. Langhorn with a great deal of civility, and I delivered Mr. Langhorn the letters from his sons, and I told him, that

I thought his sons would enter into the society: Mr. Langhorn was mightily pleased with the news, being himself a great votary for the society, that his sons would enter into it. Now, may it please your lordship, Mr. Langhorn did say, He thought if they did continue in the world, that is secular priests, they would suddenly have very great promotion in England; for he said, Things would not last long in this posture; that is, at that time he then spoke; I speak the words now, that he said then. And now, my lord, I was with Mr. Langhorn another time, while I was in England; but in the latter end of November, O. S., in the beginning of December N. S., I went to St. Omers, and there were letters that he delivered me (looking upon the Prisoner,) a paquet to carry to St. Omers. And when the paquet was opened, there was a letter signed 'Richard Langhorn,' in which he gave the Fathers at St. Omers great thanks, for the great care had of, and kindness they shewed to, his Sons, and that what they had been out of pocket for their Viaticum, in order to their journey into Spain, which was 20*l*. he promised them they should be repaid it; and in this letter he did expressly say, that he had written to Father La Chaise in order to our concerns; those were his words. Now, my lord, the letter that he writ to Father La Chaise I saw not, but only this letter I saw, which gave an account of that letter he had writ to Father La Chaise; and he said 'Mr. Coleman had been very large with him, and therefore it would not be necessary for him to trouble his reverence with any large epistles at that time. My lord, there was another letter, and I think that was in the month of March or April, I cannot be positive as to the particular time, but it was upon this remarkable circumstance: Mr. Langhorn had a son that had been in Rebellion, and had turned soldier, or some such thing in France, and this young gentleman came to St. Omers, being the place where he had been educated; and Mr. Langhorn, by the intercession of the Fathers there, did order him 5*l*., to bring him over into England, upon promise of his son's submission, who had been very extravagant in several respects. In this letter, my lord, Mr. Langhorn did express his great care for the carrying on of the design of the Catholics, and several other expressions there were in it bad enough, which I cannot now call to mind, but they were to this effect: 'The parliament began to flag in promoting the protestant religion, and now they had a fair opportunity to begin and give the blow; what that blow was, I leave to the court and to the jury to expound.'

L. C. J. But was that an expression in the letter?

Oates. It was, my lord: But it was a very large letter, I cannot give a particular account of every thing in it. My lord, in the month of April, or the beginning of May, your lordship remembers there was a consult that hath been sworn here in this Court, to which consult—

L. C. J. Pray speak it out.

Oates. There were several of us came over from St. Omers, and from other parts beyond the seas, to this consult, at which consult Mr. Langhorn was not present; but I had orders from the provincial, to give Mr. Langhorn an account of what Resolutions, and Passages, and Minutes passed at this consult; and this I did as well as I could, and when I did so, Mr. Langhorn lift up his hands and his eyes, and prayed to God to give it good success. My lord, while I was at Mr. Langhorn's chamber, giving this account, I saw several parchments lying upon the table in his study.

L. C. J. You had best tell the effect of the account you gave Mr. Langhorn in his chamber, that you speak of.

Oates. My lord, I told him who went procurator to Rome, that was one Father Cary, I told him what was the resolve of the consult concerning the death of the king.

L. C. J. Did you so?

Oates. Yes, my lord, I did: I told Mr. Langhorn that several of the Fathers were to be admonished for their irregular living, as they termed it: And to this Mr. Langhorn did reply, as near as I can remember, that he found some of them did not live up to the rules of the Society.

L. C. J. Pray tell us more particularly, what you told him. And tell us as near as you can, as you told it him then, the business of the Plot upon the king.

Oates. I told him the Resolve of the Society, and of that consult, and what was that which was resolved, that Pickering and Grove should go on to attempt to assassinate the king's person, and what was to be their reward; the one was to have, that is Grove, 1,500*l*. and the other, that is Pickering, was to have 30,000 Masses: He lift up his hands and eyes when I told him this (and I told him more particularly than I can now remember), and he lift up his hands and eyes, and prayed God that it might have good success.

L. C. J. Did you tell him they had signed to this agreement?

Oates. Yes, my lord, I told him that they had all signed it.

Langhorn. When was this?

Oates. It was the latter end of April, or beginning of May.

Langhorn. How long after they had signed the consult?

Oates. A day or two after.

Langhorn. Dr. Oates, Do you know the day of the month? You have asserted the day of the month formerly, pray do it now.

Just. Pemberton. Let him go on, you shall ask him what questions you will, by and by.

Oates. My lord, I saw there a commission for my lord Arundel of Wardour, and another to my lord Powis; the one was to be Lord High Chancellor, and the other to be Lord High Treasurer; there was a commission for my lord Bellasis, to be General, another for my lord Petre, to be Lieutenant General; and there

were other commissions, of which I cannot remember the particular names; but there was a commission for Coleman to be Secretary of State, and there was a commission for the prisoner at the bar to be Advocate of the army.

L. C. J. By what authority were those commissions?

Oates. They were by authority derived from the see of Rome, by virtue of a Breve from the Pope, directed to the General of the Society, and they were signed *IN X*, and with the mark

of the cross through the *IHS*, and they were signed "*Johannes Paulus de Oliva*."

L. C. J. North. That is the Jesuits' mark?

Oates. Yes, my lord.

L. C. J. North. Where did you see those commissions?

Oates. In Mr. Langhorn's study of his chamber in the Temple.

L. C. J. Where? Did they lie open, that any one might see them?

Oates. They lay upon the corner of his desk, folded up.

L. C. J. How came you to see them?

Oates. My lord, if your lordship please, I will tell your lordship how I came to see them. We had notice they were come by a letter from one Father Anderton, and he called these commissions patents, and, if it please your lordship, I did ask Mr. Langhorn, whether he had received them? He told me, Yes: Then I asked him, whether he would do me the favour to let me see them? And because I had been privy to the Consults, and came to wait upon him by order of the provincial, he did let me see them.

L. C. J. And you saw them in his study, upon his desk?

Oates. Yes, my lord, I did. And particularly one more I can tell of, which his son was to deliver to a son of my lord Arundel of Wardour.

L. C. J. How many commissions were there?

Oates. I cannot say, about 7 or 8, I think, I did see, and looked over.

Justice Atkins. And you knew what they were?

Oates. Yes, for those that I saw, that I can remember.

L. C. J. What was my lord Powis to be?

Oates. Lord High Treasurer.

L. C. J. And what my lord Arundel?

Oates. Lord High Chancellor of England.

L. C. J. And what my lord Stafford?

Oates. As to my lord Stafford, I cannot give so good an account; but as I remember, he was to be a paymaster in the army, or some such office relating to the army.

L. C. J. North. What was the prisoner at the bar to be?

Oates. A Judge in the army, or an Advocate General, so they called him.

L. C. J. You saw most of these?

Oates. I saw several of them, most of them in his custody, I cannot say all: There was

more than for these lords, for other inferior officers.

L. C. J. How many might there be of them, as near as you can guess?

Oates. I think he told me they were about fifty.

L. C. J. What number did you see?

Oates. I saw about half a dozen or eight.

L. C. J. Well, Sir, go on.

Oates. My lord, I am now to speak to your lordship concerning some letters that he wrote to Rome, and there was—

L. C. J. Had you any discourse with him concerning the matters of any of the commissions of my lord Bellasis and my lord Powis?

Oates. No, my lord; I had but little skill in military affairs, and therefore I said but little, and I cannot give you an account, word for word, what the discourse was, for it was out of my way. My lord, there were several letters which Mr. Langhorn writ to Father La Chaise, the answers to which I saw in April and May; whereupon the Fathers did desire they might have the originals of those copies: He gave me the originals to carry to the Fathers, I think it was that very day I had been with him in the afternoon; for I was with him in the morning; the Fathers did read the letters.

L. C. J. From whom came they?

Oates. From Father La Chaise, and from Father Anderton. And La Chaise, in his letter, did assure him of his steadfastness and constancy, to assist the Society for the carrying on the cause: and that they should not need doubt, but the French king would stand by them, or to that purpose. I cannot remember exactly the words, but it was to that effect.

L. C. J. But they were directed to Mr. Langhorn?

Oates. I cannot swear that directly, but he gave them me.

L. C. J. Who were La Chaise and Anderton?

Oates. The one was confessor to the French king, and the other rector of the College at Rome.

Justice Atkins. But you saw those in the prisoner's custody, you say?

Oates. Yes, my lord, I did.

L. C. J. He gave them you to deliver to the Fathers, to Whitebread and the rest of them?

Oates. Yes, my lord, but I cannot say who they were directed to.

L. C. J. But pray repeat what was the substance of that letter.

Oates. My lord, as to the words of them, I dare not charge my memory; but it was to this purpose, that La Chaise would stand by the English Society, and assist them, and that they should not need to doubt the French king, or to that effect.

Mr. Belwood. Do you remember any letters that were writ by Mr. Coleman to La Chaise?

Oates. Yes, my lord, I remember several letters that Coleman writ, but Mr. Langhorn was not affected in them.

Mr. Belwood. Did he know of them?

Oates. He gave an account in his letter to the Society, That Coleman had writ letters to La Chaise, and was very large, and therefore he should not trouble his reverence with any long epistles.

Sir Cr. Levinz. What do you know of any money that was to be raised by the Benedictine monks?

Oates. I had forgot that.

L. C. J. You say, that he said, they should not need to doubt the French, but he would stand by them with men and money: For what purpose, pray?

Oates. I'll tell you for what purpose it was: the words of the letter did alledge it to be for carrying on of the cause.

Justice Pemberton. You mean the Catholic cause?

Oates. So it was generally understood.

L. C. J. But for the other money, what say you?

Oates. Mr. Langhorn was employed as solicitor for the Jesuits, and did accompany some of the Society, Father Harcourt, Father Fenwick, Father Kaines and Father Langworth, and they went and did communicate the secret to the Benedictine monks, desiring them to stand by them with a sum of money for the carrying on the design: Now, upon Mr. Langhorn's soliciting them, and appearing for them, as I have heard, 6,000*l.* was promised and paid.

L. C. J. By whom promised and paid?

Oates. By the Benedictine monks.

L. C. J. To whom?—Oates. To the Society.

L. C. J. To what person?

Oates. That I cannot say; but it was said, Mr. Langhorn was to receive it.

L. C. J. Did you see the money paid?

Oates. No, I did not.

L. C. J. Did you hear Mr. Langhorn confess it was paid?

Oates. Mr. Langhorn did say in the month of July or August, I cannot be positive which, but thereabouts, when he was spoke to about it, that he would stir in it, and do the utmost of his power for the procuring of it. And another thing, I am sure Mr. Langhorn was very much disgusted, that sir George Wakeman was not contented with the 10,000*l.*

Sir Cr. Levinz. What was the 6,000*l.* for?

Oates. It was for the general cause.

Sir Cr. Levinz. For the murder of the king?

Oates. Yes, and the alteration of religion.

L. C. J. North. How did it appear that Mr. Langhorn was disgusted, that sir George Wakeman would not take the 10,000*l.*? and what was it for?

Oates. It was to poison the king. And he said, He was a covetous man; that was in a public concern; and that, being it was to carry on the cause, it was no matter if he did it for nothing: But he said he was a narrow-spirited, and a narrow-souled physician.

L. C. J. When was it that he said he would stir for the money?

Oates. It was in July, or in August.

Langhorn. My lord, may I ask him any question?

Justice Pemberton. Yes, yes, Mr. Langhorn, you may.

L. C. J. North. Pray, Mr. Oates, you saw such and such commissions from the superior of the Jesuits, that were signed 'Johannes Paulus de Oliva;' pray will you look upon this, and see whether you know it? [And a writing under the Jesuits seal was shewed him.]

Oates. This is the hand, the very hand, that was to the others, and they had put such a seal; and that is for Mr. Stapleton to be rector of St. Omers.

Sir Cr. Levinz. Now, my lord, if you please, this was not one of those commissions that Mr. Langhorn did distribute to the persons that were to have them; no, he would let us have none of those; but is a commission of another nature, it is neither for an office civil or military, but ecclesiastical, and yet it is under the same hand and seal.

Langhorn. You say you came to me, the first time, in November; and you went to St. Omers, when, sir?

Oates. The latter end of November.

Langhorn. When arrived you at St. Omers?

Oates. I think it was the 10th December New Stile, I will not be positive.

L. C. J. All their defence lies in catches upon a point of time, in which no man living is able to be positive.

Oates. My lord, if the 26th of November fell upon a Monday, then it was on the 26th day that I set out for Dover in the coach, as near as I can remember, and I got to St. Omers a Friday morning following.

Langhorn. A Friday after, you say, you got to St. Omers?

Oates. About that time.

Langhorn. How long did you stay there?

Oates. Till April following I staid.

Langhorn. Without any moving from thence?

Oates. I only went to Paris, and after that, a night or two at Watton, and then came away in April. My lord, I desire, if your lordship pleases, that Mr. Langhorn may ask the court, and the court ask me; for I know the court will be so kind as to ask me such questions as are reasonable and proper for me to answer.

Justice Atkins. That indeed is the regular way, for prisoners should not ask the questions, but the court.

Langhorn. Very well, I shall observe the method, if your lordship please. I desire to know what time in April he came back for England.

Oates. I came about the middle of April, or latter end, I will not be so positive in that, and I was in England under twenty days.

Langhorn. Can you tell what day you came into England?

Oates. No, I cannot exactly, but I came in April, the middle or the latter end.

Langhorn. I desire to know who came with him?

Oates. My lord, there came a matter of nine or ten of us in all.

L. C. J. Name them.

Oates. There was Father Williams, and Father March, the rector of Liege, and sir John Warner.

Langhorn. What is the rector of Liege's name?

Oates. Warren, I think; I cannot tell names so exactly.

Langhorn. Go on, Sir, pray.

Oates. I cannot name any more.

Langhorn. You have named them all in the records of the Lords' House.

Oates. It is like I have. I refer you to that.

Langhorn. Did sir Thomas Preston come over with you?

Oates. Yes, he did.

Langhorn. Did Poole come over with you?

Oates. Yes.

L. C. J. Look you, Mr. Langhorn, we had all this matter spoken of yesterday, and there were witnesses that prove that sir John Warner and sir Thomas Preston were there.

Langhorn. I humbly conceive, that was upon an issue tried in another county, by another jury, and therefore I hope I do not amiss in urging what I can say for myself to this jury.

L. C. J. You are not debarred, I only told you of it. Was sir Robert Brett there?

Oates. Yes, I think he was, I am not confident of that. My lord, I own what Mr. Langhorn can bring to the Court upon record.

Langhorn. I only ask it, because he says so in the House of Lords.

Oates. If you can shew the record of what I said there, do.

Langhorn. I do not desire him to name them now, but to know whether he does now affirm the truth of what he swore in the House of Lords.

L. C. J. If you can produce, as you may, if you have been diligent, a copy of the record in the House of Lords, and have it sworn to be a true copy of the records, it will be evidence for you, and shall be read; but to put him to remember a record without book, must not be, it would be hard for him to undertake that.

Langhorn. I desire to know how he came from Dover; whether in a coach, or on horseback, to London?

Oates. Indeed the question is so sudden, that I cannot be positive, but as near as I remember, I came by coach.

Langhorn. I will give my reason why I ask this; because he hath formerly, upon a trial in the King's-Bench, affirmed he came by coach, in the company of Mr. Hilsley.

Oates. No, I did never say so; but I came over in the packet-boat, in the company of Mr. Hilsley; but when we were come over, Mr. Hilsley went out of the way from us.

Langhorn. I desire to know where he lodged, when he came to town?

L. C. J. Where did you lodge the first night?

Oates. I did lie at Mr. Grove's house, when I came to London in April.

VOL. VII.

L. C. J. But the first night when you came from Dover, when you came into London in April?

Oates. My lord, I cannot say I lay there the first night; but my lodging was provided for me there.

L. C. J. You are to answer as well as you can; if you cannot remember it, say so. Do you say the first absolutely, or not?

Oates. My lord, I cannot remember the first night, but I lay several nights at Mr. Grove's.

Langhorn. Then I ask whether he did generally lie there during his stay.

Oates. I did lie there some nights.

L. C. J. How many times did you lie there?

Oates. I believe three or four nights. I won't be positive as to the number.

Langhorn. What day was the consult?

Oates. It was the 24th of April.

Langhorn. What day did you acquaint me with it?—*Oates.* A day or two after.

Langhorn. When did he return back to St. Omers?

L. C. J. When did you go back? about what time?

Oates. My lord, I think it was a week in May, I cannot be positive, but I think that was the outside.

L. C. J. They said, yesterday you affirmed you stayed but six days.

Oates. I do not say so, but I say under 20.

Mr. Justice Dolben. Come, have you any thing else to ask him?

Langhorn. Those letters that he speaks of, I desire to know whether he saw me write them?

L. C. J. Those letters you speak of, did you see him write them?

Oates. I did not see him write them, but I am sure they were his letters, because I know his hand.

L. C. J. How did you come to know his hand, since you did not see him write them?

Oates. I saw the letter whereby he ordered money to be paid, 5*l.* to his son. And I saw the money paid to his son by that order.

Langhorn. Do you know that La Chaise and Anderton writ to me?

Oates. I do not say that they writ to him, but he had letters subscribed by their names, and they were said by him to come from them, and they were to be communicated to the priests and Jesuits; and he delivered them to me to that end.

Langhorn. When you returned to St. Omers, how long did you stay there?

Oates. Till 23d June, New Style, which is the 13th Old Style.

Langhorn. I remember he professed himself a Roman Catholic, I see he is a minister: I desire to know of him when he left the Protestant Religion, and became a convert, as he called himself; call it what you will, when he left being a Protestant, and became a Papist, that is it I mean?

Oates. He does it for nothing but to quarrel.

L. C. J. When did you leave the church of England?

2 F

Oates. My Lord, if it be the pleasure of the bench to ask me this question—

L. C. J. You ought to answer it, though it be nothing to the purpose.

Oates. Then I answer it was either in February or March, 1677.

Langhorn. My Lord, I desire to know whether he had any benefice?

Oates. Yes, I was sometime Vicar of Bobbing—in Kent: But I suppose this is to make me accuse myself of something, whereby I might forfeit my living: for, my Lord, I have a right in point of equity still to that living, but only for going beyond sea without leave of my ordinary, I am not now Vicar of—

Langhorn. When did you come to your Vicarage?

Oates. In 1672.

Langhorn. You became a Papist in 1677. I ask this question, whether he did leave his living before he turned Papist?

Oates. My Lord, I am not willing to answer that question.

L. C. J. When did you leave your living? Did you leave it before you went away?

Oates. It was not very long before; but the reason why I am not willing to tell is, When I left the parish, I left it in the charge of Mr. Thomas Turner, Vicar of Milton, and I did go near about Chichester, and served a sequestration there. The air was not a good air in that part of Kent, and I had not my health; and that was one reason, and for other reasons best known to myself.

Langhorn. After he became a papist, I desire to know whether he became a Jesuit? Were you in any order there?

L. C. J. Mr. Langhorn, it is not a proper question, we ought not to ask it him: You are a man of the law, and therefore you know it is not fair to ask any person a question about a criminal matter that may bring himself in danger.

Langhorn. I take him to be out of danger, he hath his pardon.

L. C. J. I don't know what his pardon is, nor how far it reaches, nor whether this be contained in it; but if Mr. Oates pleases to answer that question he may.

Justice Dolben. Though he hath his pardon, he may be in danger of ecclesiastical censure.

L. C. J. He says, he will not.

Langhorn. I will give you another reason why I ask it, because in one of his Narratives he seems to call himself so; he says 'There came over nine of us, all Jesuits,' I suppose him to be one of that order; this I took to be a ground why I might properly call him so.

L. C. J. Narratives are no evidence at all.

Langhorn. But that gave me an occasion to ask the question.

Oates. I cannot answer it, because it tends rather to raise a debate in the court, than conduces to the question, to acquit or condemn the prisoner.

Justice Pemberton. You are not bound to answer it.

L. C. J. He tells you, he is not bound by law to answer, and he refuses to answer.

Langhorn. I desire to know whether he ever saw me, or conversed with me, from the time he acquainted me with the consult; and saw the commissions in my chamber?

L. C. J. How often did you converse with Mr. Langhorn?

Oates. After I returned again in July and August, once or twice.

L. C. J. How often in April and May?

Oates. Twice, I think, about the time of the consult.

L. C. J. And when you came over again, how often?

Oates. Twice more, I think; twice or thrice.

L. C. J. So then, he hath been four or five times in your company?

Oates. He would not let me come to his house, for he used to say, his wife was but Aums-ace turned from a devil; and therefore he would not have me come thither.

Langhorn. I hope he will not go out of the court.

L. C. J. No, he will stay here, but you have done with him at present, have you not?

Langhorn. Yes, my lord, I have.

Sir Cr. Levinz. Swear Mr. Bedlow. [Which was done.]

L. C. J. Mr. Bedlow, I ask you but one short question, because I would not interrupt you afterwards, that paper that you saw signed by the superior of the jesuits, where had you it?

Bedlow. I had it at Mr. Daniel Arthur's.

Langhorn. What is that?

L. C. J. It is an instrument signed and sealed, just as the things were which Mr. Oates says he saw in your chamber.

L. C. J. North. And besides you must take notice, that this was found a long time after. Mr. Oates had given his testimony publicly, for his closet was not searched till a great while after.

L. C. J. It is to shew you what seals they used to have to their commissions. Mr. Oates describes several commissions that he saw in your study, so sealed and subscribed; and after the searching Mr. Arthur's study, being a papist, that commission is found there. Now though it be a thing of a private concern, a church matter, not relating to the matters in question, yet this very commission is so subscribed, and so signed and sealed, as Mr. Oates had described those to be before in your chamber.

Bedlow. Because it was exactly the hand and seal that I saw to the commissions in Paris, I did take particular notice of the paper, and brought it to the council.

L. C. J. Well, Sir, now go on with your evidence.

Bedlow. First, my lord, I will only ask this question of the court, whether a known Roman Catholic may take notes of the evidence in such a cause?

L. C. J. Truly no, I think not.

Bedlow. There is an honourable lady in that gallery, the lady Marchioness of Winchester, that hath took notes all this trial.

L. C. J. She will do herself, nor nobody else any great hurt, by what she writes.

Bedlow. I only speak it for the information of the court.

L. C. J. A woman's notes will not signify much truly, no more than her tongue.

Bedlow. My lord, about three years since, I was sent by Mr. Harcourt and Mr. Coleman, to La Chaise, with some letters for the carrying on of this design. With these letters, Mr. Coleman asked me, if I could go with him as far as the Temple. I have no particular acquaintance with Mr. Langhorn, I was but twice at his chamber, once with Mr. Harcourt, and once with Mr. Coleman. I waited upon Mr. Coleman to Mr. Langhorn's chamber in the Temple: there did he register such letters as Mr. Coleman brought to him, and afterwards Mr. Coleman sealed them up, and gave them me to carry to La Chaise.

L. C. J. How do you say? When you went with Mr. Coleman to Mr. Langhorn's chamber, were the letters there?

Bedlow. The letters were writ first at Coleman's house, and brought open by Coleman to Mr. Langhorn, and he read them and registered them, and then Coleman sealed them up, and gave them me to carry away.

Langhorn. What letters were these?

L. C. J. Do you know what the effect of those letters were?

Bedlow. The letters were read, some of them, at the King's-Bench bar, at Coleman's trial: there was one of them writ by Mr. Harcourt, another by Mr. Coleman to La Chaise.

Just. Pemb. What was the effect of them?

Bedlow. Only to let La Chaise know, that they waited only now for his answer, how far he had proceeded with the French king, for the sending of money; for they only wanted money, all other things were in readiness. That the Catholics of England were in safety, had made all places, and all offices, to be disposed of to Catholics, or such as they thought would be so; that all garrisons were either in their own hands, or ready to be put into them; and they had so fair an opportunity, (as I remember that was one of the expressions in the letter to father Stapleton) that they had so fair an opportunity, having a king so easy to believe what is dictated to him by our party, that if we slip this opportunity, we must despair of ever introducing popery into England; for having a king of England so easy, and the French king so powerful, they must not miss such an opportunity.

L. C. J. For what?

Bedlow. To send over money for the carrying on of the cause, for they only wanted that, all else was in readiness: and the other letters were to the same effect, though in other words. That letter was in English, but the letters to La Chaise and the Nuncio were both in French.

L. C. J. But you understand French, do not you?

Bedlow. Yes, my lord, I do.

L. C. J. Did he copy them out, while you were there by?

Bedlow. He registered them before me.

L. C. J. Did he write them into a book? and were you there all that time?

Bedlow. Yes, my lord, I and Coleman walked in the chamber, whilst he went in and writ, as he did other things; for he registered all their accomplices: there was not a penny of money either received or laid out, nor any thing done almost in relation to this concern, but he did keep a register of it: I cannot say, that ever he did talk any thing before me of the king's death particularly, but talked of the whole design. About a year and a half since, Mr. Harcourt sent another packet of letters by me to Mr. Langhorn to be registered; he looked strangely upon me, and received the letter, and sent an answer to Mr. Harcourt, that Mr. Williams (for I went then under the name of captain Williams) had delivered him such letters, and that he should have them again to-morrow, after he had copied them, and registered them. Mr. Harcourt read the letter of answer to me, and in the letter it was Mr. Williams. Said I to Mr. Harcourt, I thought I might have been registered by my right name, because when any thing should take effect and occasion serve, I resolved to bear my own name. Alas, says he, this does not signify any thing at all, for as for this register, it is not so considerable: there shall be a new register made, of things of weight and moment, this is only a blind register amongst ourselves. The two letters that I brought from Harcourt, there was one of them from sir William Godolphin, that I had brought before from Spain.

L. C. J. Who was that directed to?

Bedlow. To my lord Bellasis; and about three weeks after it was that I was sent to Mr. Langhorn to have it registered; the other was from the Irish college of Jesuits in Salamanca. The letter from the rector did specify, that they would have my lord Bellasis, and the rest of the lords that were concerned, and the rest of the party in England, to be in readiness, and to have this communicated with all expedition; for now they had provided in Spain, under the notion of pilgrims for St. Jago, some Irish cashiered soldiers, that had left their country, some for religion, and some for their crimes, and a great many lay-brothers, whom they procured and gathered together under the notion of pilgrims, to be ready to take shipping at the Groine, to land at Milford-Haven, there to meet my lord Powis, and an army that he was to raise in Wales to further this design. And these letters said they had almost brought it to a period, that they did only expect a return from England, to shew in what readiness they were here, that accordingly they might proceed.

L. C. J. Did Mr. Langhorn see these letters?

Bedlow. He took these letters from me, and told me Mr. Harcourt should have them again, when he had transcribed them; and

writ a letter to Mr. Harcourt, that Mr. Williams had brought him such letters.

L. C. J. And he did transcribe them?

Bedlow. I suppose so, for he afterwards sent them back to Mr. Harcourt.

Justice Atkins. Was it a good large book that he registered them in?

Bedlow. I know not what book he registered them in, not those letters.

Langhorn. It is a proper question, because he said I registered those letters before him.

Bedlow. I say, I saw him in his study transcribe Coleman's letter, whilst Coleman and I walked in his chamber.

L. C. J. Into what kind of book did he register that? had he more books than one, pray?

Bedlow. My lord, I cannot tell that, I judge it might be the same book. I saw the book then, it was a large parchment book; but I did not see it when Harcourt's letters were registered. When Coleman and I came thither, he went into his study, and left us in the chamber, I saw him transcribing the papers that lay before him: but when I brought those letters from Mr. Harcourt, I only delivered them sealed up, and his answer to Father Harcourt was, that Mr. Williams had brought him so many letters, and he should have them again as soon as he had transcribed them.

L. C. J. Mr. Langhorn, you would do well to shew us the book, and that would make the matter plain.

L. C. J. North. Could you see how far he had gone in the book, and what room there was left to write other letters?

Bedlow. It was a book at least three inches thick, and as near as I could guess he had gotten through two thirds of the book.

L. C. J. But you should shew us your book, Mr. Langhorn.

Langhorn. I say, my lord, if I had such a book, it must needs be found in my study; if I had it, it must be there, for I never removed it.

L. C. J. That was not a book fit to be left there.

Bedlow. My Lord, Pritchard did tell me that the commissions were come, and that Mr. Langhorn had them, and things, says he, are now in a readiness. Then said I, When shall I have my commission? said he, those that Mr. Langhorn hath are only for the general officers, you must have yours, said he, from my lord Bellasis.

Sir Cr. Levinz. Do you know any thing of any money that was to be raised by the Benedictine monks; 6,000*l.* or what other sum?

Bedlow. My lord, in May 1676, among the letters I carried to La Chaise, one of them was directed to Stapleton a Benedictine monk, to raise the money for England.

L. C. J. The money, what money?

Bedlow. The money they had promised to remit into England.

L. C. J. But did they name no sum?

Bedlow. No, my lord, for they had no particular promise, but only that they did make it their business to raise what they could.

L. C. J. And what was it? Do you know of any sum of money that was raised, and by whom?

Bedlow. La Chaise told me himself, that they had no reason to suspect him or his interest with the French king, for he had laid that sure enough. And that when he found a fit opportunity, the money was ready to be remitted into England, and that he had remitted some of it already to Mr. Coleman and Ireland.

L. C. J. You know not but by what La Chaise told you?—*Bedlow.* No.

L. C. J. He speaks what La Chaise told him that he would raise money, and that he had sent some to Mr. Coleman and Ireland.

Bedlow. Yes, and that the rest should follow when he found there was absolute occasion; but he would not part with his money till they had assurance of their being in readiness here and likely to further and carry on the design?

Mr. Justice Atkins. Mr. Bedlow, had you any discourse with the prisoner about any commissions?

Bedlow. No, My lord, it is at least a year and a half since I saw him.

L. C. J. Did he ever own any commissions he had?

Bedlow. No, Pritchard told me he had some.

L. C. J. You have seen the commissions, have you not?

Bedlow. No, I never saw any in Mr. Langhorn's hand.

L. C. J. Where did you see them then?

Bedlow. Sir Henry Tichbourne did shew me three commissions in Paris, signed by the general of the order, and sealed with the Jesuits seal, which made me take up this paper, which hath been shewn, though it were a thing indifferent, yet, because it was written with the same hand, and sealed with the same seal that the commissions were that I saw at Paris.

Mr. Belwood. Did Mr. Langhorn know any thing of the treason to murder the king, by Pickering and Grove?

Bedlow. That I do know only by report; but when Grove Pickering, and Conyers were going to New-Market, I was at Harcourt's chamber, and I had a design to go to Windsor to observe what they did; and I did ask Father Harcourt to give me leave to go, see a friend of mine take shipping at Plymouth, to send some commendations by him to my friends in Italy; then says Father Harcourt, you cannot be spared, you must not go now, for we don't know what return these gentlemen will make of their journey, and what occasion there may be for you, if there should be any good effect of it: then, said I, I will go and write, and send it by a friend down to be sent into Italy: but, said he, you must stay a while till I come back again; I am going to Mr. Langhorn's chamber in the Temple, to take the minutes of what they have done this morning. That was the contrivance of sending down those people to Newmarket to assassinate the king.

Justice *Atkins*. That is no evidence against the prisoner, because it is by hear-say.

L. C. J. It is right, and the jury ought to take notice, that what another man said is no evidence against the prisoner, for nothing will be evidence against him, but what is of his own knowledge. But I desire, Mr. Bedlow, as well as you can you would repeat the effect of one of the most material letters Mr. Langhorn did transcribe.

Bedlow. Though I was not so exact a Frenchman, in the nicety of the tongue, yet I understood enough to learn the sense of those letters. The English Letter from Stapleton, which he transcribed, was to this effect: That Coleman and Harcourt, naming themselves We (that is, We and the Jesuits, and it was to the rector of the English monks in particular, but I missed of the rector, and Mr. Stapleton received it); I say, the effect of that letter was, they would have a certain answer from them—

Langhorn. When was it?

Bedlow. It was in 1676.

L. C. J. What was the effect, say you?

Bedlow. The effect was, that they would have a final answer from those religious at Downy and Paris, to know how far they had proceeded with the English religious, and all their friends beyond sea, in making collections, and remitting of money, for there was only money wanting; for the arms of the Catholics were all ready, and they had all a good mind to the business, their arms and hearts were ready, and the easiness of the king of England, and the strength of the power of France, made it an opportunity not to be neglected: That the garrisons were ready to be put into such hands as they could trust.

L. C. J. Was there such an expression in the letter, upon your oath, that they had such arms, and that the garrisons were ready to be put into their hands, and whose hands they were ready to be put into?

Bedlow. Yes, my lord, there were such expressions, and they would have the garrisons only in such hands as they could trust.

L. C. J. And did he transcribe those letters?

Bedlow. He did transcribe those three while we were in his chamber.

Just. *Pemberton*. Was there any mention of exciting the French king, by power, to invade this kingdom?

Bedlow. There was in the French letter to M. La Chaise, which he transcribed too.

Langhorn. That was in French, he says.

L. C. J. I suppose you understand French too, or else you could not do what you did.

Langhorn. I understand law French.

L. C. J. Mr. Bedlow, did you never hear him discourse in French?

Bedlow. No, my lord.

Oates. I cannot write nor read French, but I can translate it.

Mr. *Recorder*. If you have any questions to ask him, you may ask him.

Langhorn. How many were the letters that then I transcribed?

Bedlow. There were three, my lord; one was to the English monks at Paris, another was to M. La Chaise, another to the Pope's Nuncio.

Langhorn. Were they long or short ones? I ask for this reason, because I observe that in the Narrative, Coleman's Letters are very long; of what length might they be?

Bedlow. They were the best part of half a sheet of paper, for Mr. Coleman writ a curious fine small hand, and would put a great deal of business into a little paper; the Pope's nuncio's letter was very short.

L. C. J. Did he transcribe them all before you went away?

Bedlow. Whilst we walked in his chamber, he registered them: We took a great many turns about in the chamber, and I saw the papers before him, and his book.

Langhorn. Did those letters express what the money was to be raised for, or did they leave it to be understood? My meaning, my lord, of my question is this, Whether Mr. Coleman writ to him to hasten the money, and said it was for such a particular use, or only in general.

L. C. J. He hath answered it already, but he will do it again.

Bedlow. My lord, though it was not expressed in the letter, but only we want nothing else from beyond sea, but your assistance; though it was not expressed in the letter to destroy the king and the Protestant religion, yet the full of the discourse betwixt Mr. Coleman and Mr. Langhorn was to this effect: We only stay for money, when we have got that, we will put ourselves into a posture.

L. C. J. If you observed it, he said so before, when we asked him what the effect of those letters was, That all things were ready, it is a good opportunity now for the effecting of our design, having so easy a king to deal with, and your king having so powerful a treasury; do you but get the money of him, and we shall do well enough.

Bedlow. Though it was not specified in the letters what the money was for, yet in the discourse between Mr. Coleman and Mr. Langhorn it was worded so, that it was plain it was to destroy the government, and introduce popery.

Langhorn. My lord, ask whether this be all that he charges upon me?

Bedlow. I cannot say that, my lord, that this is all I have to say against him; things may occur to my memory hereafter, which do not now.

L. C. J. But at this time you remember no more, do you?—*Bedlow*. No.

Just. *Atkins*. But to my apprehension, what you said last was most material, that is, the discourse between him and Mr. Coleman, for that rivets the whole. When he said, that if we had but a return of this money, then we have made ourselves safe, or words to that effect; but it was to the full meaning of this, that the Protestant religion could not stand any longer here, having assistance from France.

L. C. J. So they consulted together after the letters were transcribed, did they?

Bedlow. Yes, my lord.

Oates. My lord, I omitted one thing that was very material in my evidence, which comes in my mind since. The congregation at Rome did contribute 800,000 crowns, to be sent into England, and Mr. Langhorn did enquire concerning that money, and had knowledge of the receipt of it in France, as Mr. Langhorn did say, in the month of July, or August.

L. C. J. Did he say it to you?

Oates. He did to Father Harcourt, Father Kaines, and Father Fenwick, that there were 800,000 crowns come to France.

L. C. J. What said he then concerning the 800,000 crowns?

Oates. He gave an account of the money's being lodged at Paris.

L. C. J. You hear what he says, that you gave an account of 800,000 crowns that were raised abroad, that it was lodged and received at Paris.

Bedlow. I recollect something more now, though I was not in Mr. Langhorn's chamber. I met with Father Kaines, one day, and said he, I must go and speak with one Mr. Langhorn, presently; and when he came out again, he brought a letter in his hand, and afterwards we went to a tobacco-shop in Wild-street, and there Father Kaines told me the effect of the letter. He told me it was a chiding letter from the Secretary *de propaganda fide*, cardinal Barbarino, who had sent a chiding letter to Mr. Langhorn, and the rest of the conspirators, for going on no faster, when they had so fair an opportunity.

L. C. J. Did you see the letter directed to Mr. Langhorn?

Bedlow. Father Kaines told me the effects of it, and he had the letter from Mr. Langhorn.

L. C. J. He told you so? well, but this evidence is as to the plot in general, but not to Mr. Langhorn in particular. But that which he charges you particularly with, is this, your transcribing the letters, wherein there was an expression made, of your being all in readiness as for arms and the garrisons; and your discourse afterwards with Mr. Coleman, in what a posture all things were for the destruction of the government, and the bringing in popery, and there wanted nothing but money, for the effecting the whole design. This is that he says.

Langhorn. My lord, I suppose he will not go out of the court, neither?

L. C. J. No, no, he will stay here.

Sir Cr. Levinz. My lord, there is one witness that he had not ready here, when we began to give some account of the general plot, I pray he may be examined; his name is Buss. [Who was sworn.]

L. C. J. What can you say of any design upon the king's life? What is your name?

Buss. My name is Thomas Buss.

L. C. J. What profession are you of?

Buss. I serve the duke of Monmouth.

L. C. J. In what capacity do you serve him?

Buss. I am his cook.

L. C. J. How long have you served him?

Buss. Thirteen years I have lived with him.

L. C. J. Well, what is it you have to say?

Buss. Being at Windsor, my lord, with an old acquaintance of mine, one Handkinson that was then newly come from Italy——

L. C. J. When was this?

Buss. In September last, within a week after the duke came from Flanders, and we were drinking together, for I had not seen him for many years before, and there was one Anthony, was in the company, and said he, I am newly come from Italy, and I am going again, and I am come to take my leave of my friends. When do you go away, said I? I believe I go to-morrow, said he; but pray, said he to Anthony, have a special care of those four worthy gentlemen. What gentlemen, said I; Four worthy gentlemen, said he, that I brought over with me. What, said I, from Italy? No, said he, they are four worthy Irish gentlemen; They are very worthy persons, said he, have a special care of them, for they will do our business.

L. C. J. What said you to that?

Buss. Nothing; for I knew nothing of it, till I saw Coleman's trial, where it speaks of the four Irishmen that were to kill the king at Windsor, then I bethought me of it.

L. C. J. Would you not ask what that business was, or so?

Buss. No, I did not know at that time.

L. C. J. But no man in England but would have asked such a question.

Buss. No, he said they were strangers: but, said I, did you bring them out of Italy? No, saith he, they are four Irish gentlemen that I brought over with me, worthy persons.

L. C. J. And what religion was he of that said so?

Buss. He was a Catholic, one that bought all into a college, that did so here before he went.

Praunce. He belonged to the Benedictine monks, my lord, in the Savoy.

L. C. J. And what was he that he spoke to?

Buss. He was a Catholic too, he was servant to one that that belongs to the queen's chapel.

L. C. J. North. Did you understand what the business was they said they were to do?

Buss. Not till I read Mr. Coleman's trial, and then I did guess these were the persons that were to have killed the king at Windsor.

L. C. J. You saw them not, did you?

Buss. No; they were in charge of this Anthony, that is now in some place in the queen's chapel.

Justice Atkins. Did you speak to Anthony to have a care of them, or to you?

Buss. To Anthony, he was the person that was to take care of them.

L. C. J. Is Anthony a papist?

Buss. Yes, a very strong papist, and we used to be often together; but now he is jealous, and will not come near me, to talk with me, as we used.

L. C. J. Now I understand the reason of it, why he did not ask the question; it was not likely he should, for it was not spoken to him, but he stood by, all the while the discourse was to Anthony, another man, and it was to him that he spoke, to have a care of the four Irishmen, for they would do their business. What did Anthony say?

Buss. He promised he would have as much care of them as of his own life.

L. C. J. Where is this Anthony to be found?

Bedlow. My lord, Anthony is a Portuguese, and the queen's confessor's man.

L. C. J. When did you see him?

Bedlow. He was seen this morning, they call him signior Antonio.

L. C. J. North. You should have an order to take this same Anthony into custody, but in order to the finding him, let him go to my lord Ossory.

L. C. J. Mr. Tisser, we give you an order for the taking of this signior Antonio, you will find him at Somerset-House; for the doing of this, we do advise you to wait upon my lord Ossory, and tell him, that you have such an order, but that out of reverence to the queen, we have also ordered you to wait upon him, to desire him to send him.

L. C. J. North. What is become of this Handkinson?

Buss. He is abroad, beyond the seas, my lord, for he said he was come hither to take leave of his friends, and was to go the next morning into Surrey, and so away.

L. C. J. Well, what have you now to say, Mr. Langhorn?

Langhorn. I conceive this last witness says nothing to me.

L. C. J. North. He speaks only to the Plot in general, as the first witnesses did; but that which is upon you, is as to Mr. Oates, who speaks to every article of the indictment expressly; and Mr. Bedlow says he did not only see you transcribe and copy out that treasonable letter, but he carried other letters to you, which you promised to transcribe; and these are Overt-acts, that make you a party to the treason.

L. C. J. Besides your discourse with Coleman, after the letters were transcribed.

Langhorn. These two gentlemen were parties in this supposed crime; the two witnesses which do concern me, are Mr. Oates and Mr. Bedlow, and they both of them clearly appear to have been in the same treason that I suppose they charge me with; I desire to know whether they have had their pardon or no?

L. C. J. I believe they have. If Oates and Mr. Bedlow, have you your pardons?

Bedlow. Yes, my lord, I have three.

Oates. I have two pardons under the broad-seal, but I don't know what is in them.

L. C. J. North. But make your objection how you will; whether they had, or whether they had not, they are witnesses.

Bedlow. I never gave any evidence, till I had my pardon.

Langhorn. I ask for this reason; I look upon your lordship and the court as my counsel, to advise me in the matters of law, whether these be good witnesses, or not?

L. C. J. We do tell you, that if we had not judged them to be witnesses, we would not have heard them.

Langhorn. They come under the same reason of law with an approver, having had their pardon; I don't say they are directly approvers but I conceive they come under the same reason of law with them; and then if the approver be pardoned, by the law the appellee ought to be discharged; and methinks by the same reason, these men having been *Participes Criminis*, and having got their pardons, ought not to be such substantial witnesses against the prisoner at the bar. But, my lord, I have one thing yet further to ask, I desire to know whether they have not received any rewards or gratifications, for the discovery they have made, and the service they have done? And whether they do not expect further rewards?

L. C. J. Is there any allowance to be made to you?

Oates. I have received a reward, by disbursing 6 or 700*l.* out of my pocket, and I don't know when I shall see it again.

Justice Pemberton. Mr. Langhorn does suppose that the witnesses are corrupted and bribed: Do you think, Mr. Langhorn, that the king will bribe his witnesses?

Langhorn. My lord, I only propose it as a question.

L. C. J. Would you answer that question yourself?

L. C. J. North. If you can suppose there was any subornation or corruption, call your witnesses and prove it; but for their receiving sustenance and maintenance from the king, that is but reasonable, and can be no objection. And you yourself know, that an approver, while he is in that service, hath a penny a day, which in ancient times was a great matter for livelihood and sustenance; so that any reward that they have, if you cannot prove it by contract or subornation, you cannot make an objection.

Langhorn. My lord, I am informed by a prisoner in the Gaol, that Mr. Bedlow hath received 500*l.*

L. C. J. If you can prove any thing, do; prove what you can.

Recorder. That 500*l.* was about a particular fact.

L. C. J. But pray, what is his name?

Langhorn. His name is Mr. Reading.

L. C. J. North. He is an infamous person, he hath stood in the pillory, we can't take him for a witness; but now I will tell you, for the 500*l.* it is a thing we all know of. It was a reward for a particular business, not relating to the plot,

but it was for the discovery of the murderers of sir Edmundbury Godfrey.

Justice *Atkins*. I think Mr. Praunce is here, that will give an account of that, for Bedlow discovered him.

Bedlow. I am so far from having any benefit by this discovery, that I am 700*l.* out of pocket.

Justice *Ellys*. You shall have the liberty to make what good defence you can for yourself, and prove what you can; you must not go this way to work.

L. C. J. It is pretty reasonable for us to give a public satisfaction to all the world, that we do nothing under hand, but that we do in this case, as in all other cases; any thing that is fit to be answered, they shall answer; and perchance in this case something more than can be strictly required of us. It is notorious enough, that Mr. Oates and Mr. Bedlow have been led at the king's charge, and it cannot be objected against them, and need not to be winked at, for they were parties in the plot. And when they come to make the discovery, without which we should never have known the plot, for you know it is hard to discover any crime, forgery, or the like, but by one that hath been privy to it, and a guilty person; yet these men always have been, and are in law, witnesses, and it is just they should have a competency to maintain them, since they came for the public good to make such discoveries.

L. C. J. *North*. And that particular sum of money was paid to Mr. Bedlow, in pursuance of the king's proclamation, which we all know; which was all publicly done.

Langhorn. The reason why I press this was, because of the proclamation, which was to invite persons to come, touching the discovery of this plot; and to encourage them to it by a promise of reward. I think it may be reasonable enough, where any person that is charged with a crime doth absent, to propose a reward for the bringing him in. But I think it is hard, that when a prisoner is in custody, witnesses should be brought in against him by such means.

L. C. J. *North*. You do artificially go off from the point: answer the evidence that hath been given against you, and you shall be heard; but you labour very much, and trouble yourself to make answer to another matter that is not pertinent.

L. C. J. Does your defence consist wholly of this sort of matter, objecting the incompetency of the witnesses? Can you make no answer to the fact?

Langhorn. I must tell your lordship, my whole defence must run to disable the witnesses; for, my lord, I was committed to Newgate the 17th of October, and I have been kept there a close prisoner till this day was s'en-night, or Friday the last week; I never conversed with any friend or any relation, nor knew any thing of news, but only with some few persons, sent by authority of the House of Commons, or the council. And I was never examined by any since I was committed. I

never heard what was charged against me, and I could not foresee what these men could testify, because I was not confident whereupon they would proceed: therefore I can have no defence, unless it be by lessening their credit; it is impossible I should.

L. C. J. Do lessen it, if you can. If you have any witnesses to take off their credit, or contradict them, call them.

Justice *Atkins*. But I would say one thing to you. Mr. Langhorn, you seem to put a very ill construction upon the king's proclamation, as if it were to invite and encourage persons to come and swear about a plot, where there was none; it was to invite people to make a further discovery of a plot that lay close, and we could not fully discover, for the preservation of the king and kingdom, without such a means.

Langhorn. He did propose a reward.

Justice *Atkins*. Aye, in order to a further discovery of that plot which we had evidence of before.

Justice *Pemberton*. And so you would be close in all your accounts, and none should be rewarded that could make us any discovery of them, but presently their testimony must be gone. It is very fine! But the Court overrules it.

L. C. J. Mr. Langhorn, whatsoever you object of this kind, does fly in the face and reflect upon the integrity and wisdom of King, Lords, and Commons.

L. C. J. *North*. For it was done by the advice of all three.

L. C. J. If you will go on, and prove any thing, but pray don't spend our time to no purpose.

Langhorn. Call Parrey, and Townley, and Doddington, and the rest.

Oates. My lord, here are papists come into the Court with their swords on.

L. C. J. They will not draw them here.

Lord Mayor. It is well enough, it is well enough; Dr. Oates, you are safe enough here.

L. C. J. Who will you have first?

Langhorn. I would have Hilsley set up. [Which was done.]

L. C. J. What would you ask him?

Langhorn. Your lordship hath heard Dr. Oates affirm he came over, such a time, in the packet-boat with Mr. Hilsley; I desire to know whether that be true or no!

L. C. J. I can help you in that, for we had him and his companions here yesterday; but, however, we will hear them again, if you will have them. Do you know Mr. Oates?

Hilsley. I do, my lord, very well.

L. C. J. When did you come over from St. Omers?

Hilsley. I came over the 24th of April, New Style.

L. C. J. Did Mr. Oates come with you?

Hilsley. No, he did not.

Oates. No, my lord, he did leave me there, but I overtook him at Calais.

L. C. J. Look you there now, you did leave

him there, but he overtook you at Calais. Did you leave him there?

Hilsley. I did leave him there.

L. C. J. Ay, but he overtook you, then, did he not?—*Hilsley.* No, he did not.

L. C. J. He answers as he did yesterday, that he did not come over with him. You lost your money, did you not?

Hilsley. Yes, I did.

L. C. J. How did you lose it? Did you lose it at play?

Hilsley. It is no matter how I lost it; I did not lose it at play.

Oates. I will tell the Court, if your lordship please; how he lost it; he lent a great deal of money to a gentleman, who went away with his money, and left him to pay the reckoning.

L. C. J. What say you to that?

Hilsley. That is very true, and I confess it; but what is all this? nothing to the matter. He was told this by somebody else. I never saw him, nor ever any man in the ship saw him come over with me.

L. C. J. I will tell you what, then; first, here is something now that you would not confess yesterday, nor indeed would you confess it now. I asked you how you lost your money; you see Mr. Oates can tell you how it was, tho' you won't tell us; so that, though this be a secret, he knows it; and how could he know this secret, unless he were there?

Hilsley. There is one that I met by the way, that did tell him this story.

Then one *Gifford* stood up.

L. C. J. Did you see Mr. Oates?

Gifford. Yes, my Lord.

L. C. J. What discourse had you with him concerning *Hilsley*?

Gifford. Why, he told us of his departure.

L. C. J. When?

Gifford. After he was gone away.

L. C. J. How long after?

Gifford. Three or four days.

L. C. J. What said he to you?

Gifford. He only told us he was gone.

L. C. J. What else said you of him?

Gifford. He only said he departed out of the college then.

L. C. J. What did you say to Mr. Oates about it?

Gifford. I don't remember what I said in particular.

L. C. J. *Hilsley*, call up the other person that you say told Mr. Oates.

Hilsley. He is not here, my Lord, but here is one that was in the company when he told it.

L. C. J. Who was by?

Gifford. Mr. Burnaby, who came thither the 1st of May.

L. C. J. Harken to me: when you talked with Mr. Oates concerning Mr. *Hilsley's* being gone from the college, was there any body by?

Gifford. I cannot tell.

L. C. J. Was Mr. Burnaby by, when Mr. Oates and you talked about Mr. *Hilsley*?

VOL. VII.

Then another Witness started up.

3d Witness. Yes, my Lord, there was Mr. Oates with me, and Mr. Burnaby put himself into our company in the garden, and he acquainted me with this story.

L. C. J. What said he?

3d Witness. He said he met this gentleman, and that this gentleman was cheated of his money.

L. C. J. How did he tell you he was cheated?

3d Witness. I don't know the occasion, but he said a fellow cheated him of the money.

L. C. J. Was that all he said?

3d Witness. Yes, my Lord, but I do not remember upon what occasion; he said he was cheated by a shirking fellow.

L. C. J. Did he name the place he met him at?

3d Witness. I don't know, my Lord, whether he mentioned it or no.

L. C. J. So that Mr. Oates names the place which he was never told; and unless he was there, how could he then tell it?

3d Witness. But this does not prove that I speak against my conscience, that does not argue.

L. C. J. Look you, the answer is this, Mr. Langhorn. You would charge Mr. Oates with falsity in saying he came over in the packet-boat with *Hilsley*; and you call up him, and he says, he did not come, but he left him at St. Omers; Mr. Oates comes and says, it is true he left me there but I overtook him at Calais; by this very token, said he, you were cheated of your money, by a person that you lent it to who went away, and left you to pay the reckoning. When I asked Mr. *Hilsley*, how he could tell if it were true that he was not with him, he answered, he was told it by another; but when I come to know what that other person said it was no more than this; he said, in Mr. Oates's hearing, Mr. *Hilsley* was cozened of his money, but did not say how, nor by whom nor where.

Langhorn. Now, to prove that what Mr. *Hilsley* said is true, and that therefore Mr. Oates his knowledge must come by another hand, I desire that the witnesses may be asked, how long Mr. Oates was at St. Omers?

L. C. J. How long was Mr. Oates at St. Omers?

3d Witness. From December till June, he was there, except one particular day that he went to Watton.

L. C. J. And you saw him almost every day?

3d Witness. Yes, I did.

L. C. J. You have fifteen or sixteen witnesses that will say all this; but yet, if you will, we will call them.

L. C. J. When he went away, do you know that?

3d Witness. He went in June, I cannot certainly say the day.

L. C. J. Well, call another.

3d Witness. Pray, my lord, let me speak, if your lordship please to let me give you my

2 G

reason, why I might see him; I saw him in the refectory; he had a little table by himself, distinct from the rest, and dining together in a public place, it was impossible but we should see his place empty, if he were gone; and I know the number of my own school, and can tell whether any one be absent.

L. C. J. What, because he sat at table by himself, therefore you think he was there all the while?

3d Witness. Certainly, if I may believe mine own eyes, I saw him there every day.

L. C. Baron. Were you there every day yourself?

3d Witness. Yes, my lord, I was, I did not miss one day, I had no infirmity.

Langhorn. My lord, Mr. Oates hath affirmed that there was with him, when he came over in April, sir Robert Brett.

L. C. J. He says only he believes so; he says positively, he came over in the company of sir John Warner, sir Thomas Preston, and he thinks also sir Robert Brett, but is not positive.

Langhorn. This he affirmed both in his Narrative, and upon oath in the Lords' House.

L. C. J. Shew any thing that he was sworn to here.

Justice Atkins. But what says this lad more? Let him speak, for he is very full of it.

3d Witness. The 1st day of May I saw him in the garden, with a lay-brother, at kittle-pins, in the view of all the college.

Langhorn. Let us examine him as to persons, and then refer it to the Lords' Register.

L. C. J. Why, if you will prove something Mr. Oates hath sworn there, that you can contradict, first prove what he swore, and then contradict it.

Justice Pemberton. Pray take notice, you must not go oppose him in any thing of that oath, unless he hath sworn it here; whatsoever there be there, except he hath sworn the same here, it is in vain to object it, for he cannot be intended to have witness to make good what he swore there.

Sir Cr. Levinz. Let us hear what he does offer.

Langhorn. Under favour, Mr. Oates hath acknowledged what he swore there was true.

L. C. J. You are mistaken, Mr. Langhorn; indeed when you asked him that question, he said, as far as what concerned what he swore here, was true, and he is bound at this time to answer no more.

Langhorn. Then as to sir John Warner, I desire my witnesses may be examined.

L. C. J. I suppose they may be here, and say the same they did yesterday; that he did not stir from his house at Watton all April and May.

4th Witness. Yes, my lord, he lived there all that while.

L. C. J. What year?

4th Witness. In the year 1678.

L. C. J. That is the time that Mr. Oates says he came over with him. You saw him almost every day, did not you?

4th Witness. Yes, I did, only four days that I was absent, being sent by him to St. Omers, at a great feast.

L. C. J. And when you came back, you found him there?

4th Witness. Yes, I did.

L. C. J. You are his gardener, are you not?

4th Witness. Yes, I am.

L. C. J. Did you stay all those four days at St. Omers?

4th Witness. I was sent to the High Kirk, and carried some instruments for the music, and there I staid four days, and the last day of April, and the first, and second, and third, of May. And I saw Mr. Oates there in the house, and I saw him going into the refectory to dinner.

L. C. J. He says, that sir John Warner was at home all April and May, that he himself was absent but four days, that he left him there, and when he came back found him there; and that in the four days he was at St. Omers, he saw Mr. Oates, which was the last of April, the first, second, and third of May. You do not know when Mr. Oates went away?

4th Witness. No, my lord, not I.

Justice Pemberton. Was sir John Warner there all June?

4th Witness. My lord, I cannot tell that, I only speak to April and May.

L. C. J. Those are two months that fit him.

Justice Pemberton. Why, how came you not to remember that, as well as the other two, for that is since?

4th Witness. Because I took not so much notice of him in those times.

L. C. J. How came you to take more special notice of them two months, than of the other?

4th Witness. Because our rector did then come into England, and he took the charge of the house upon him in the rector's absence.

L. C. J. When did he come?

4th Witness. He came the 24th of April.

Justice Dolben. Pray who is your rector? What is his name?

4th Witness. Sir Francis Williams.

L. C. J. Where was sir John Warner in June and July?

4th Witness. I cannot tell.

Justice Pemberton. And where was he in August and September?

4th Witness. He went out of town, but where I am not certain.

L. C. J. You were gardener there then?

4th Witness. Yes, I was.

L. C. J. Why cannot you as well tell me, then, where he was in June and July, as in April and May? Answer me plainly.

4th Witness. I think he was there all that time, but I cannot be certain.

L. C. J. Why not so certain for those two months, as you are for the other?

4th Witness. Because I did not take so much notice.

L. C. J. How came you to take more notice of the one than the other? that he was there in April and May, rather than that he was there in July?

4th Witness. Because the question, my lord, that I came for, did not fall upon that time.

L. C. J. Now he hath answered plainly; when I asked the question, Why he did not take so much notice of those months, as he did of April and May? he answered me, Because the question did not fall upon those months; and that, without all question, is a plain and an honest answer.

Justice Dolben. Indeed he hath forgot his lesson; you should have given him better instructions.

L. C. J. Look you, Mr. Langhorn, if he be to be believed, and that he doth not speak falsely, or more than he knows, it is impossible that Oates's testimony and his can stand together; for he directly affirms, he saw Mr. Oates the last of April, the 1st, 2nd, and 3rd of May. Now Mr. Oates says he was here then; so these two cannot stand together. The question then is, Whether he be to be believed? and, Whether he does not come wilfully or prepared? The Jury have heard what a kind of testimony he gives, when the question was asked him, How he came to take notice of the months of April and May, more than of June and July? and why he was more sure sir John Warner was there at the one time, than at the other? Why, said he, because the question falls upon those former months, and not upon those of June or July. Now that does shake all that was said before, and looks as if he came on purpose, and prepared for those months: and now this, I am afraid, will go through all your St. Omers men.

L. C. J. North. Indeed, I doubt it will go a great way to shake all their testimony.

Sir Cr. Levinz. You, gardener, what do you say was your rector's name?

4th Witness. Sir Francis Williams.

Sir Cr. Levinz. And he came over in April or May, did he?

4th Witness. He came over the 24th of April.

Sir Cr. Levinz. Why, that is the time that Mr. Oates came over, and he was one of the persons that he said came over with him.

4th Witness. No, he came alone, only with a certain officer of the college.

Langhorn. Pray let Gifford be asked the same question about sir John Warner; for if he did come, as he saith, from Watton to St. Omers at that time, he must see him at St. Omers, for he was at St. Omers then. The question is about sir John Warner; if he were at Watton, or St. Omers, then he could not come over with Mr. Oates.

L. C. J. When did you see sir John Warner?

Gifford. I saw him about June, or thereabouts.

L. C. J. Where did you see him?

Gifford. I saw him there in St. Omers house.

L. C. J. When?

Gifford. In June or July, when he invited me over to Watton.

L. C. J. This man does not serve the turn, he does not know the month upon which the question runs.

5th Witness. The 1st of March there was a great feast, St. Fortunatus and Gordianus, and then I saw Mr. Oates 4 days, and he was there all the month of May.

L. C. J. Where was sir John Warner then?

5th Witness. I cannot tell; but at St. Omers I saw Mr. Poole and sir Robert Brett at that time.

L. C. J. Did Mr. Poole come over with you?

Oates. Yes, my Lord, he did.

L. C. J. Witness, when did Mr. Poole come over from St. Omers?

5th Witness. He came first to St. Omers with Mr. Whitebread, he was my master of music, and he taught me, and it was impossible he should be missing without my knowledge.

L. C. J. But he was gone to England long before that; and he could not be at England and at St. Omers at the same time.

5th Witness. You say right, he could not.

L. C. J. When came he from St. Omers?

5th Witness. In the month of June, or May.

L. C. J. Or April?

5th Witness. No, it was the month of June.

L. C. J. These are but collateral matters, Mr. Langhorn; for you to stand upon this, it spends time to no purpose; but the great question is, friend, whether you do not mistake the month?

5th Witness. Yes, yes (at which the people laughed); no, no, I do not mistake the month, I only speak the truth according to my knowledge.

L. C. J. How can you so precisely remember the month of May he was there; for when I asked you when he went away, you could hardly tell the month.

5th Witness. Yes, my Lord, Mr. Oates says, in the month of May he was in England; but I say I saw Mr. Poole then at St. Omers.

L. C. J. But the great question is, Whether you are to be believed? We know you answer the question positively; but my reason why I fear you are not to be believed, is, because you are so precise that Mr. Poole taught you all May; but I ask you once more, was it in June, or was it in May?

5th Witness. It was about June.

L. C. J. May is about June. Why, then, you cannot tell. Was it in June?

5th Witness. Yes, my Lord, it was; it was about June. And this is nothing but what I know; for I actually saw Mr. Oates there at that time.

L. C. J. I will tell you what, Mr. Langhorn, use your discretion, call whom you will, and we will hear them as long as you will; but we had 16 of them yesterday, that did all speak to the same purpose; but in answer to these 16 witnesses, Mr. Oates did produce, and he will produce again, six or seven witnesses, and one of them a papist, if not a priest, who do swear, that Mr. Oates was here in April and May; I will tell you beforehand, do as you will.

Then one *Baille* stood up, and being a foreigner, an Interpreter was called.

L. C. J. Where did you see sir John Warner in April and May?

Interpreter. He says he saw him actually at St. Omers.

L. C. J. What, all the month of May?

Interpreter. Yes, he says he conversed with him all the month of May.

L. C. J. And was he there all April, and conversed with him then?

Interpreter. Yes, he says every day, of both months. He says he saw him from the first Sunday in April to the 14th of May, and conversed with him.

L. C. J. Where did sir John Warner go the 14th of May?

Interpreter. My Lord, he says he went for one day only to St. Omers, and came back again.

L. C. J. Ask him how he knows this?

Interpreter. He says he was employed about a building by sir John Warner.

Then *Carpenteir* stood up.

L. C. J. When did you see Mr. Oates, and where?

Carpenteir. I speak as to sir Tho. Preston.

L. C. J. What say you as to sir Thomas Preston?

Carpenteir. I saw him at Liege.

L. C. J. When?

Carpenteir. All the months of March, April, May and June, he was still there.

L. C. J. When went he away?

Carpenteir. In the time of the vacancies.

L. C. J. When is that?

Carpenteir. That is from the beginning of August till the end of September.

L. C. J. When came he again?

Carpenteir. When they came to school again, and that was on the second or third of October.

Justice Dolben. Were you with him all that time?

Carpenteir. Yes, I was: He hath not been in England these three years.

L. C. J. How long have you been there?

Carpenteir. I have been there four years, and I never knew that he was absent, but in the time of the vacancies.

Justice Pemberton. Call another witness.

Then stood up another witness, who being a Dutchman, and not speaking English, an interpreter was called for him also.

L. C. J. Well, what comes he for?

Interpreter. He says he comes to testify, That sir John Warner was at Watton in April, and he says he saw him there from the 14th to the 25th of April.

L. C. J. And then to what time?

Interpreter. He says he was there till the 16th of May.

Justice Pemberton. Ask him where he was the beginning of April?

Interpreter. He says he was superior there in the house, and did govern.

L. C. J. Ask him where he was the latter end of May?

Interpreter. He says he was likewise in the house, save only one day, that he went to St. Omers.

L. C. J. Then he might have said, in short, he was there all April and May.

Justice Pemberton. Call another witness.

Langhorn. Call John Joseph. [Who stood up.]

Justice Pemberton. What do you ask him, Mr. Langhorn?

Joseph. That which I say is this, That sir Thomas Preston was at Liege in March, April, May, and June, 1678.

L. C. J. Did you see him every day in those months?

Joseph. That I cannot well tell.

L. C. J. Did you see him every other day?

Joseph. Yes, my lord, I believe I did once in two or three days.

L. C. J. Where was he in July?

Joseph. He was at Liege too: He was obliged to be so; but in the time of the vacancies in August, he was absent.

L. C. J. Then you say he was all those months, March, April, May, June, and July, there?

Joseph. Yes, my lord, those four months I am sure of it.

L. C. J. What became of him in August, when he went during the vacancies abroad? Do you know whither he went?

Sir Cr. Letinz. Do you know whether he went into England?

Joseph. I never heard that he was in England.

L. C. J. When did he return again?

Joseph. When they began school, and that is in the beginning of October.

Then another Witness stood up.

L. C. J. Well, what say you?

10th Witness. I can say that Mr. Oates never stirred out of the college at that time when he says he came to England; that is, he says he came upon Monday the 25th of April; but he did not, for that day he went into the infirmary, and he stayed at St. Omers all April and May.

L. C. J. And how much longer?

10th Witness. A great part of June.

L. C. J. Was he there the 20th of June?

10th Witness. I am sure he was, but how much longer I cannot tell.

L. C. J. Where was he in February and March?

10th Witness. He was there too; in January he lay out one night, and that was at Watton, but I am sure he did not come over the 24th of April, New Stile, as he says.

Recorder. Now he says, it is New Stile, not Old Stile, as he said yesterday.

Then another Witness stood up.

L. C. J. Well, what do you say?

11th Witness. Mr. Poole was sick, and I can remember when his nephew went to him into the infirmary, before he went away from

the college, and he gave him good counsel, as he said, and I remember that Mr. Brett was sick at Watton, and did come home again on horseback, and I believe he did not stir out; and Mr. Poole was at St. Omers, I am sure I saw him once in two or three days all April and May. He went by the name of Killingbeck.

L. C. J. But he does not positively say he saw sir Robert Brett every day there; he says he believes he did.

11th Witness. He came into the school, and gave the boys questions to dispute of.

Mr. Recorder. Call the rest of your witnesses. Then another Witness was called and stood up.

L. C. J. North. When did you see Mr. Oates at St. Omers?

12th Witness. I saw him almost every other day from the time he came till he went away.

L. C. J. When was the first time you saw him?

12th Witness. The beginning of December.

L. C. J. Did you see him in April there?

12th Witness. Yes, I saw him in April there at an action.

L. C. J. And did you see him in May there?

12th Witness. Yes I can testify I saw him the first day of May in the garden.

L. C. J. How long stayed he there?

12th Witness. Till June.

L. C. J. How came you to take such precise notice?

12th Witness. By his very place I could not but take notice if he were missing.

L. C. J. How can you say you saw him in the garden the 1st of May?

12th Witness. I will tell your lordship why, because there was a great feast and he plaid at nine pins in the garden, and I can tell what they played for.

L. C. J. What say you as to Mr. Nevil, and sir Robert Brett's being at St. Omers?

12th Witness. I did not take so much notice of sir Robert Brett; as for Nevil I think I saw him once in three days.

Justice Pemberton. And there is nothing said of him here

Then another Witness stood up.

L. C. J. When did you see Mr. Oates first at St. Omers?

13th Witness. I first saw him in the month of December.

L. C. J. Did you see him in April and May?

13th Witness. Yes, my lord, I did.

L. C. J. Was he there all those months?

13th Witness. Yes, my lord, he was.

L. C. J. North. Was he there all the month of June?

13th Witness. He went away towards the latter end of June.

L. C. J. North. Yesterday you said the latter end of July. Call another witness.

Then another Witness stood up.

L. C. J. North. Come, you hear the question;

did you see Mr. Oates at St. Omers, in the month of April?

14th Witness. Yes, my lord, he was there all the month of April.

L. C. J. Was he there all the month of May?

14th Witness. Yes, my lord, he was.

Justice Pemberton. And a good part of June.

14th Witness. Yes, my lord.

Langhorn. What do you say as to Mr. Poole?

14th Witness. I saw Mr. Poole in the infirmary the third day of May.

L. C. J. North. How came you to take notice of it, so well as to remember it, that it was the third of May?

14th Witness. It was a festival day. And the feast we kept was the invention of the Holy Cross. We had the action the day before and some that were in the infirmary would have it acted over again to them, and we did so. My Lord, within one or two days after Mr. Hilsley went away, I discoursed with Mr. Oates, about half an hour; he came out within a day or two after out of the infirmary, and I saw him walking in the gallery. And again the 2d of May I saw him walking with one Mr. Burnaby, who arrived the day before, the first of May, and then I saw him the 3d, 4th and 5th, in this Burnaby's company; I saw him again, the 26th of May, with a band about his head in order to confirmation, for they always have a linen cloth bound about their head at such a time.

L. C. J. Call another. Who stood up, his name was ****.

L. C. J. What can you say?

****. All that I can say is this, that between the said month of December 1677, and June 1678, which is the time in question, Mr. Oates was never out of the college above one night, when he went to Watton in January; and this is certain, that from the time I saw him first, till the time he went away for altogether, there were not two days that passed away, wherein I did not see him, except in the month of March, and when he was in the infirmary the 24th of April, but then I heard that he was there—

L. C. J. Who did tell you so?

****. The man that keeps that part of the house; and coming into my office after my recovery out of a fit of sickness a week before Christmas or thereabouts, I saw Mr. Oates by this circumstance, the servitors of the house said they were glad to see me, and Mr. Oates being in the place at the refectory that was assigned to him, I asked who he was, and they told me such a one; but I had heard of his admission a few days before. Likewise Mr. Oates was there when Mr. Hilsley came from England, which was about the 24th of April, by this circumstance, that he was present in the refectory with some of the scholars. Mr. Richard Burnaby came to the college about a week after Mr. Hilsley went away, and Mr. Oates was actually there then, and we did very

much wonder that he became acquainted with him so quickly after his arrival. I say Mr. Oates was actually there when Mr. Killinbeck and Mr. Conquest came for England about the 3d of May, by this circumstance, that I had some discourse with Mr. Oates, and some others of the scholars, that Mr. Conquest would by no means get out of his bed betimes that day he was to go away, being unwilling to leave the college. He was there the 26th of May by this circumstance, that the bishop dined there that day, and Mr. Oates was there confirmed that day. Mr. Oates was there also in June, my lord.

L. C. J. Yes, he was there in June, he does not deny it.

Mr. Justice Pemberton. And was he there all May?

****. Yes, my lord, he was, and all April, except the time he was in the infirmary, which was three or four days.

Langhorn. What do you say as to Poole and Nevil?

****. They were there all the whole time in question, and they were never absent any competent time to come to England, as he says.

L. C. J. North. We must not allow that, you must tell us what time they were there, that we may know it.

****. They were there in March, April, May, June and July.

L. C. J. But did you see him every day from the beginning of Christmas, to the time he went away in June?

****. Yes, except the time he was at Watton, and when he was in the Infirmary.

Recorder. But was not Mr. Oates twice in the Infirmary?

****. He was I remember there on St. Thomas of Canterbury's day, and I remember he was there in April.

Sir Cr. Levinz. I did hear you say something of somebody that was absent five or six days, was it you?

****. I was sick in the month of March, and I was in the Infirmary till about the 12th or 14th day.

Sir Cr. Levinz. And did you see him there all that time?

****. I excepted that time, but I heard his voice once in that time, in the next room to the Infirmary, where I was, by this circumstance, he used to come to a table by himself, and it was near the door, and Nevil and Poole were there, as I said before.

Recorder. He speaks much more to the purpose to day, Mr. Langhorn, than he did yesterday.

L. C. J. North. And much louder.

Langhorn. I hope your lordship will take notice that he speaks likewise of the residence of Mr. Poole, sir Robert Brett, and Mr. Nevil.

L. C. J. Yes, I do: Call another witness.

Who stood up, and being a Foreigner, his Evidence was likewise interpreted.

L. C. J. Ask him what he says.

Interpreter. He says he saw Mr. Oates, he was there, and he remembers it till about the 25th of June.

L. C. J. Where did he see him?

Interpreter. He says it was either in the house, or in the garden.

L. C. J. North. When was that, that he was in the Infirmary?

Interpreter. He says, he was in the Infirmary towards the latter end of December, or the beginning of January.

L. C. J. Ask him what he says about Nevil and Poole.

Interpreter. He says they were there all June, and that Mr. Poole went away in the month of July; and he further says, that he being a waterman, he carried this same Williams and March in his boat the last Sunday in April.

L. C. J. North. Who is your next, Mr. Langhorn? Let him stand up. (Which he did.) When did you see Mr. Oates at St. Omers?

16th Witness. In the month of April, 1678.

L. C. J. And in May too was he?

16th Witness. Yes, he was.

L. C. J. Was Mr. Poole there all that time?

16th Witness. Yes, he was; and so was Mr. Nevil and Mr. Brett.

L. C. J. Where is Nevil now?

16th Witness. I believe I left him there.

L. C. J. What are these persons?

16th Witness. The one is a prefect, and I believe he is there still. In the month of May I made Mr. Killinbeck a suit of clothes, and Mr. Oates came into the shop, and asked me whose clothes they were? I said Mr. Killinbeck's; said he, How can that be? they are black: said I, they must be black, for he is in mourning.

Langhorn. Here is Mr. Grove's wife and his maid.

Then Mrs. Grove stood up.

L. C. J. What question would you ask of her?

Langhorn. Mr. Oates hath sworn, and given us several circumstances of his coming over, and being here at that which he calls the consult, and that he lay at Mr. Grove's three or four nights; I desire she may be asked that question, whether he did so or no?

L. C. J. Do you know Mr. Oates, Mrs. Grove?

Grove. No, I never saw him.

L. C. J. Were there any lodgers lay at your house in April was twelvemonth?

Grove. Yes, my lord, there were.

L. C. J. Do you use to have lodgers that you do not know?

Grove. My house was full of lodgers at that time. I did not know them till they lay there.

Sir Cr. Levinz. Why then, Mr. Oates might be there, and you not know him.

Grove. If he lay there, I must needs know him.

L. C. J. Why might not a man lie with any

of your lodgers three or four nights, and you not know him?

Grove. Who should he lie withal, my lord?

Oates. I had a bed to myself when I lay there.

L. C. J. Mr. Oates, describe the chamber as well as you can.

Oates. It was a place taken out of another room, where two men were taken out that were committed to prison.

L. C. J. Were there any persons taken out of your house, and sent to prison?

Grove. Yes, my lord, there were.

L. C. J. In that very room he lay, out of which those persons were taken.

Grove. He did not.

Oates. Upon my oath, I did lie there three or four nights, more or less.

Sir Cr. Levinz. You were in a disguise, Sir, at that time, were you not, and went by another name, and so the woman might not know you?

Oates. Yes, I did so.

L. C. J. You cannot make any great matter of this; she had some lodgers, and she knew them, but he went by a wrong name, and was in a disguise.

Langhorn. Mrs. Grove says, she knew all the lodgers that then lay there; pray ask her if she did not?

L. C. J. Do you remember who lodged in your house in April was a twelvemonth?

Grove. Yes, I do.

L. C. J. Name them.

Grove. Why, there was one pair of stairs, one Mr. Strange by name, and one Mrs. Fitzherbert, and above there lay my sister.

L. C. J. What, all the months of May and April?—*Grove.* Yes.

L. C. J. And not in June?

Grove. I am not demanded of June?

L. C. J. She answers exactly to them two months, what say you to March?

Grove. They were there in March.

L. C. J. Who lay in the room from whence the men were taken that were carried to prison?

Grove. There was one Master Crupper, and another young man that lay with him.

L. C. J. Why might not that be Mr. Oates?

Grove. He was one that was a prisoner by Mr. Oates's order. And Mrs. Fitzherbert lay there.

L. C. J. What, in that room whence the young men were taken out in April or May?

Grove. Yes, my lord.

L. C. J. Well, what say you to the other months, March, and June and July?

Grove. I was not to be examined further than the two months I spoke of before.

L. C. J. Look you, she says, that for April and May two gentlemen had the lodging that Mr. Oates says he lay in; but for any other time she was not to be examined. Well, have you any more witnesses?

Langhorn. Here is Mrs. Grove's maid. [Who stood up.]

L. C. J. Maid, can you tell who lay in Grove's house, in April and May was twelvemonth?—*Maid.* Yes, my lord, I can.

L. C. J. Who were they?

Maid. There was my mistress's brother and sister lay there.

Justice Pemberton. Do you know them all? what men lay there?

Maid. None but Master Strange, my lord.

L. C. J. Mrs. Grove said, that her house was full.

Maid. Indeed, my lord, there was her brother, Mr. York, and his wife.

L. C. J. But who is that Fitzherbert?

Maid. She is a gentlewoman.

L. C. J. Who lay there in March? and who lay there in July?

Maid. Master Strange and Mrs. Fitzherbert.

L. C. J. How long did they lie there?

Maid. In April, May, June, July and August.

L. C. J. She says they lay there in March, April, May, June, July and August, and her mistress said, they were there but a quarter of a year, only she said she was to be examined no further.

Langhorn. My lord, I desire to prove a copy of the Record in the Lords' House.

L. C. J. That is not to be given in evidence here.

Recorder. You know how far such a thing will be evidence, manage your own evidence well.

Langhorn. It is an extract out of the Journal of the House of Lords.

L. C. J. What particular do you pitch upon?

Langhorn. About those persons, who, he says, came over with him from St. Omers.

L. C. J. North. Do you think it reasonable, that any man should come to answer now, all that ever he hath sworn in his life? If you can shew any Record to contradict what he hath sworn here, shew it. Do you think he can come prepared to justify all he hath sworn in any other place?

Langhorn. He referred to that himself.

L. C. J. No, he does not.

Langhorn. But he hath said over and over, that sir John Warner came over with him, sir Thomas Preston, and Poole.

L. C. J. What should you urge that book for? Can you make any other proof?

Langhorn. I would have the persons called that took the Narrative of Ireland's Trial.

L. C. J. If you have any more witnesses, call them.

Langhorn. Won't your lordship allow me to prove by witnesses, what he affirmed, in relation to me, at another trial?

L. C. J. By no means, you must not meddle with that.

Langhorn. Pray, my lord, why not? I will prove the words spoken by a witness.

L. C. J. North. You must not; that is no evidence against you, nor can it be an evidence for you.

Langhorn. Then you take off the defence that I have, and make it as if I had never any.

Justice Atkins. That is not evidence in a civil cause, and therefore must not be evidence here.

Then came in my Lord of *Castlemain*.

L. C. J. What do you come for, sir? What is your name?

E. Castlemain. My name is *Castlemain*.

L. C. J. Are you my lord of *Castlemain*?

E. Castlemain. Yes, my lord, I am.

L. C. J. Does your lordship come as a witness for Mr. *Langhorn*? Mr. *Langhorn*, do you call my lord of *Castlemain*?

Langhorn. My lord, I do not know what he comes for, whether he comes for me, or not; perhaps he may.

E. Castlemain. My lord, I come to wait upon your lordship and the Court, to give you an account, that some of the witnesses that were summoned here for the prisoners, are so beaten and abused without, that they dare not come to give their evidence, for fear of being killed.

L. C. J. That is a thing that is not to be suffered; let us but see any person that dares but offer to meddle with them, and I'll assure you we will take care to see them punished, according as they do deserve.

L. C. J. North. It is a very unjustifiable thing, a thing that we will very severely punish, if they be hindered of free ingress and regress.

Justice Atkins. Indeed it is a very horrid thing that they should be so abused; they ought to have their liberty of coming and giving their evidence here, without any molestation.

E. Castlemain. I can assure your lordship, that one of them was so beaten and bruised, that we cannot tell but it may cost him his life.

L. C. J. Nay, we must look to such a thing as that; for it is by no means to be allowed of. If your lordship will but tell us who they are; let us but know them, and we will take care for the punishment of them; for we will shew ourselves just and fair, and give them all the fair play that can be.

Justice Pemberton. Mr. *Langhorn*, have you any more witnesses?

Langhorn. Call the woman that kept the White-horse tavern. [Who stood up.]

L. C. J. To what purpose do you call this woman?

Langhorn. I desire, my lord, to ask one question of Mr. *Oates*, touching the consult at the White-horse tavern in the Strand, How many persons met there?

Oates. Before that question be asked, I pray your lordship would ask her, When she came to the White-horse tavern, to keep it.

Witness. I do not keep it now.

L. C. J. When did you keep it?

Witness. I kept it in June, and I left it the beginning of July.

Oates. She does not come to the time.

L. C. J. Did you keep it all the year before that?

Witness. I kept it seven years before, till July last.

Langhorn. I would know of him, how many might be there at that time.

L. C. J. What number of persons do you say met at that consult?

Oates. That question, if it please your lordship, hath no reference to this trial, neither is it at all material; but because I have given the prisoners so much freedom, they impose upon me with questions.

L. C. J. It is a question they cannot expect a precise answer to from you; but yet I would have you give them as satisfactory an answer as you can, what number there might be there at a time.

Oates. My lord, I think there might be at the White-horse tavern, at a time, about 18 or 20.

L. C. J. Were they in one room, or in several rooms?

Oates. They were in two or three rooms.

Witness. Is this Mr. *Oates*, my lord?

L. C. J. Yes, that he is.

Witness. I never saw him in my house in my life.

L. C. J. Was there nobody never in your tavern, but who you knew? What! can you tell all the people that were ever in your tavern?

Witness. The most of my company were people that I knew.

L. C. J. What is your company?

Witness. Those that frequented my house.

L. C. J. Can you say who was in your house, April 24, 1678?

Witness. No, my lord, I will not undertake that, but I will give you as true an account as I can.

Langhorn. I will tell you why I ask this question. Mr. *Oates* did say, in his depositions before the Lords, there met fifty.

L. C. J. At several times in the day.

Langhorn. But this must all be in the morning.

L. C. J. Why so? Suppose there met, of that company, 20 in the morning, and then some went away and others came in their room, and so they did for divers times in the day, is not this properly said of me, that there might be about 50 at that consult?

Langhorn. He saith, in *Coleman's* trial, there met fifty, upon the 24th of April, and afterwards they adjourned into lesser colloquies.

Oates. I say, they met there the 24th day, but the consult was not dissolved till the 26th day at night.

L. C. J. North. You must go only upon what is sworn now. And we ask the question, upon your proposal, How many were there at a time? and he says about 18 or 20 at a time. Now if he proves there were 18 at one time, twenty at another time, and ten at another, that makes about fifty.

L. C. J. Good woman, is your house a little house?

Witness. It is a small inconsiderable house, there is not a room in it that will hold above a dozen. I never remembered so great a com-

pany was in my house at one time, but once, in all my seven years, and that was a Jury of the parish, and they could not be together, but were divided into three rooms.

Then there stood up a Stranger; who was sworn.

L. C. J. Well, sir, do you know the White-Horse Tavern in the Strand?

1st Witness. Yes, my Lord, I do very well.

L. C. J. Do you know the biggest room in the house?

1st Witness. Yes, I do, my Lord.

L. C. J. How many may dine there?

1st Witness. It may be 20 people. I have seen a dozen or 16 there often.

L. C. J. Did you know the tavern a year ago?

1st Witness. Yes, my Lord, this was a year ago.

[Then a second Witness stood up in the court, and said, That twenty-five or thirty might dine in one room that was backward, and another that was forward. And a third attested, That he was at a wedding, and there did dine about twenty in one room next the street.]

Mr. Recorder. If she make a Jury to be in three rooms, that is but four in a room.

Justice Pemberton. Those juries are sixteen generally, or more.

Langhorn. My Lord, I don't know this Tavern myself; but I thought it very considerable if they had not a room that would hold such a number as he spoke of, fifty.

L. C. J. But you see how unfortunately it happens. The matter had not been much, if it had been proved; but it is very unlucky, that these persons should be here in court, by whom the other is contradicted. It had been better it were never meddled with. That she should be so peremptory, in what standers-by know to be false, makes this contradiction in one thing to give a suspicion that all your witnesses may be false in all the rest.

Sir Cr. Levinz. Here is a gentleman of good quality; that saith, there have been fifty in a room.

Langhorn. My Lord, I hope neither the court nor the jury will reflect upon me for this.

L. C. J. No it cannot do that; but it reflects upon your evidence, especially this woman.

Langhorn. I have been a prisoner so long, and I know nothing but what friends and relations inform me.

L. C. J. The thing was reasonably offered, but it proves so unfortunate it will not hold. Have you any more Witnesses to call?

Langhorn. Yes, my Lord.

L. C. J. I pray call them.

Langhorn. My Lord, I desire I may examine them after the king's counsel have done.

Justice Pemberton. You may say what you will for your defence, but you must examine no new Witnesses then, Mr. Langhorn.

Langhorn. I must ask this gentleman a question or two, if the court think fit.

VOL. VII.

L. C. J. Propose them to the court; what is it you would have.

Langhorn. My Lord, it is in relation to a matter that happened at Ireland's trial, I know not whether it be proper, but the question I would ask is, Whether Ireland were here in August, or no?

L. C. J. He hath given you no occasion to ask this question at this trial: and is there any reason that we should examine him to such a thing? Do you think it reasonable, or according to law, that Mr. Oates should be examined, in your trial, concerning what he then said, of Ireland's being here in August, or not being here, when it is no part of his accusation that he brings against you? Can he be imagined to be prepared for such a justification, since he does not at all give any evidence of it here?

L. C. J. North. Since he gave not any occasion or use for such a proof now at this time it is not fit he should be examined about it: indeed yesterday he gave it in evidence, because it concerned a circumstance of time that related to the prisoners then to be tried.

L. C. J. It is true, as my Lord says, that it was yesterday proper, because he gave evidence that Fenwick and Ireland were here in August together. Now that did some way concern him, but you have no concern at all in it.

Justice Pemberton. That brought it in at that time, but this is a foreign matter, it cannot be here.

L. C. J. Have you any more witnesses, master Langhorn?

Langhorn. My Lord, Mr. Oates hath affirmed, when I asked him touching his receiving a reward, he said, he had his reward, for he had been out of purse six or seven hundred pounds; and it is my desire to examine a couple of witnesses touching the probability of that; for he was so very poor, before this happened, that it is impossible, without a purse being made for him, to lay out six or 700*l.*

L. C. J. Look you, here is the thing: He gives you an answer, to which he was not in the least bound, nor is it to be charged by you; he says he is out 700*l.* but that is not any evidence, nor is the Jury to take notice of it, nor is it to affect him. And would you have him give us an account how he came by that money?

Langhorn. My lord, I will tell you how far it concerns me; the proving of his indigency before this thing happened, will concern me thus far—

L. C. J. If you should prove this man in an indigent condition, what is that to the present purpose? it goes to no part of the evidence.

Langhorn. My lord, I ask the question for this reason; for certainly if he was so very indigent, it cannot be imagined in probability that any man would trust him with such a great sum, unless it were to give this evidence.

L. C. J. If you have any more witnesses, call them, and make an end of them; if not, then you may observe what you will to the court and jury, after the king's counsel hath done.

2 H

Justice Pemberton. But all your witnesses you must call now.

Langhorn. Doth your lordship debar me from using this copy of the Record of the House of Lords?

L. C. J. To what purpose would you have it read?

Langhorn. Because Bedlow therein says, that he had no person more to charge, either in the House or out of the House, than what he then charged.

L. C. J. What then?

Langhorn. I was not one of those persons, then he knew nothing against me.

L. C. J. It is but a memorial taken by a clerk, and do you think that his omission shall be conclusive to us?

Langhorn. It is the journal of the Lords House, my lord.

L. C. J. North. But can you think that can be used as evidence here? if you had an affidavit signed by the party, and had witnesses to prove that he did make such an oath, you say something.

Justice Pemberton. You cannot read that against his testimony, you understand that, being a lawyer. If you have any witnesses, call them, but you pick out collateral matters, and spend our time to no purpose.

L. C. J. Really, if it were a thing conducing to the point, I would very much stretch; but it being such a kind of thing as this is, he says he had nothing to say against any body else, and I was not named then: what is this to the fact you are charged with?

Justice Pemberton. Why, it may be, he did not remember it then, will you conclude him, that he should never remember it, or speak of it?

L. C. J. You see that now at these trials, he says sometimes, this is all I can remember at present, but by and by he recollects himself; would you hinder him from saying what he remembers?

L. C. J. North. Besides, upon an affidavit, or an answer in chancery, we never allow it, unless we have the party to prove that he took the oath.

Langhorn. I desire to know of Mr. Oates, whether he did distribute any of these commissions, and to whom? for he hath said I did.

Oates. That which I say, is this: Those commissions that I named, they were distributed, but the persons I do not know; I know the commissions were for those five persons, and in July or August he did say he had distributed them, but he said not to whom; only one, indeed, he sent by his son, to the eldest son of my lord Arundel of Wardour, to be commissary-general; and he came back, and said it was delivered.

Langhorn. You do not speak of any other.

Oates. I do not recollect that I know of any other.

Langhorn. I ask for this reason, because, in the Lords House, he hath charged me, that I sent my lord Arundel's commission, and that I

sent it by my son, and that he saw a letter in my chamber, of the receipt of it.

Oates. My lord, there is some part of the evidence, that does reflect upon the Lords, which I charge not upon Mr. Langhorn, because I would not discover my evidence against the Lords. He goes now to expatiate upon the informations, but I hope the court will excuse me, because I reserve it for another trial.

Langhorn. I desire Mr. Lydcot may be asked, whether he did not hear Master Oates, at a former trial, say, (for so I find it in the Narrative) (it was at Coleman's trial) that he came to me the next day after the consult, and communicated it to me, and that he never saw me afterwards.

L. C. J. Do you know any testimony Master Oates gave concerning Master Langhorn?

Langhorn. You are not the person that took the trial, are you?

Lydcot. I know nothing of the business at all. I was at the trial, but I cannot particularly speak what was said there.

Langhorn. The persons that took the trial were summoned to be here. Call Mrs. Sylward. (But she appeared not.) Call Mr. Blayney.

L. C. J. Here is Mr. Blayney, what would you ask him?

Langhorn. I would know of him, what Mr. Oates hath testified concerning me?

L. C. J. Do you know what Mr. Oates said concerning Mr. Langhorn?

Blayney. When, my lord?

L. C. J. Nay, I cannot tell.

Langhorn. At Coleman's trial, Sir.

Blayney. My lord, I was present at Coleman's trial, and I remember Mr. Oates did say something about Mr. Langhorn, but I have not my book here, I cannot tell what it was.

Langhorn. Here is the book, Sir, here is the Narrative.

Blayney. That was not printed by my copy, Sir.

Langhorn. Who were they that did take it?

Blayney. Of my own knowledge I do not know whose copy it was, but by hearsay.

L. C. J. It was taken as well as it could be taken, but you must not urge that which is but an historical narrative against him.

Mr. Just. Pemberton. Mr. Langhorn, do you think to convict a man by an History? To say a man is forsworn because he does not swear as that history says he did swear?

L. C. J. We will do you all the right, and give you all the fair play we can; but we are of opinion that it signifies nothing, that you can make no use of it.

Langhorn. If I can have no light, how can I imagine what they will charge me with?

L. C. J. Have you in any other case observed it? If a man be indicted of felony or treason, any capital crime, he is clapped up, and is not permitted to have a copy of the indictment, nor he cannot by law.

Langhorn. They know something of what

they are accused for, they are confronted before a justice of peace.

Mr. Just. *Pemberton*. Why, I will suppose you had been examined, do you think your examination would have been evidence for you here?

[Then one Elizabeth Sylliard was called, but affirming, That she durst not speak unless the Court would promise her protection against the rabble; because some of the witnesses had been abused; which the Court not being able to do, otherwise than by promising to punish those that offered to meddle with her, if she brought them before them, she was, by Mr. Langhorn's consent, set aside, and not examined.]

Langhorn. She comes in relation to a point that happened at Reading's trial, where Mr. Bedlow did depose, That he did not say all he could have said against Mr. Whitebread and Mr. Fenwick, but that he did know more against them than he gave in evidence at their first trial.

Mr. Justice *Pemberton*. What is that to you?

Langhorn. That I take to be a kind of perjury in him; for they are sworn, To speak the truth, the whole truth, and nothing but the truth.

L. C. J. Is this material in your case what he said about Whitebread and Fenwick?

Langhorn. It makes it material to make him uncreditable.

L. C. J. Mr. Whitebread made that objection, but he was answered; for he was told, That he could not tell all that he knew at that time, because he was in treaty with Mr. Reading about the lessening of his evidence against them, and the lords in the Tower, and the lords were to judge what measure they should have from him, by his kindness to Whitebread and Fenwick. If you have no more, the king's counsel will go on.

Sir Cr. *Levinz*. My lord and gentlemen of the jury, you have heard the evidence that Mr. Langhorn hath given for the making of his defence, which hath been principally to reflect upon Mr. Oates; and he first calls Mr. Hilsley to prove, that whereas Mr. Oates did swear he came over with him, he affirms he did not; but it falls out, that Mr. Oates hath counterproved him by such a circumstance as does contradict him in what he says; for speaking of the loss of his money, Hilsley said somebody else had told him of it; but producing his witness for that, he only affirms, that Mr. Oates in his company was told, that Mr. Hilsley had lost his money, but not how nor where; but Mr. Oates gives you a particular circumstance, that he was cheated by a person he lent his money to, and that left him to pay the reckoning, which Mr. Hilsley does confess was true, and which he could not hear from the others, for the others did never know it. Gentlemen, they have brought you a great many other witnesses to prove, that Mr. Oates was not in England on the 24th of April, the time he says he was, and they all agree as to that time,

though as to other times they are not so exact; but we shall give you as plain and as full an evidence that he was here at that time, as that you are there now, and shall very fully satisfy you in it. For that of sir John Warner, and sir Thomas Preston, they are matters that were transacted beyond sea; to be sure they did not come over by those names, no more did Mr. Oates himself; therefore it would be hard to find out these persons, or to give you so particular an account of them that were thus in disguises, and had changed their names; but truly if that were a matter done in England, it were far more easy for us to confront their testimony in that; for matters that are done here lie more ready for our proof, than those that are done beyond sea; for the last woman that he called, which was the woman about the White-Horse tavern, her evidence would have gone as punctually for truth, if it had been a matter done in Flanders, as any thing could be in the world; but it happening to be near home, it hath the ill fortune to meet with a very sudden answer, which is a manifest proof how they stretch to help themselves, and in my opinion this contradiction overthrows all their evidence. Gentlemen, we will call our witnesses, and prove it as plainly as any thing can be in the world, that Mr. Oates was here at that time. First swear William Walker. [Which was done.]

L. C. J. Do you know Mr. Oates?

Walker. Yes, Sir, I have known him 7 or 8 years.

L. C. J. When did you see him in England last year?

Walker. I saw him the latter end of March, 1678, or towards the middle of April following. I saw him then in a disguise, insomuch as that I knowing what he was, and what he had been, I could not a great while recollect the face of the man, and it was a great trouble to me, that having known him so many years, I should not then know him. I went home, but could not recollect myself that night; but before I rose again the next morning, I did recollect myself that it was Titus Oates, and I presently turned myself out of my bed, and went to a gentlewoman whose name I did not then well know, to enquire of her about it. After the salutation, said I, how does Mr. Oates? Said she, knocking her hand upon the counter, He is an undone man: Why, what is the matter, said I? He is turned, said she, to the Church of Rome: Do you know where he is, said I? No, said she, but he is lurking up and down the town, and only dares appear in the evenings. Well then, said I, I saw him later than you did; for I saw him between St. Martin's-Lane and Leicester-House yesterday, but he was in a disguise: and I told her what habit he was in.

L. C. J. What time was that?

Walker. It was about ten of the clock in the morning.

L. C. J. But what time of the year was it?

Walker. It was the latter end of March, or the middle of April.

Just. Pemberton. It was before the end of April.

Walker. Ay, ay, my lord.

L. C. J. And that contradicts all your witnesses; for they say, that he was there all March, and all April, and all May, nay from December to June.

Langhorn. He hath said, the latter end of March, or the middle of April, I would have him be as certain as he can.

L. C. J. He cannot be certain; for those things in point of time, you know and all mankind must agree, that a thing done a year ago that was of no greater importance at that time cannot so easily be remembered, or that he should take such special notice of the critical day. What man in the world does remember or take notice so as to charge himself in what week or what month such an accidental thing as this happened? But to satisfy Mr. Langhorn I ask you, can you speak any more particularly than you have done?

Walker. Because I would not be mistaken, or do any one any wrong, I do rather take an uncertain time than a certain, but I do think it was in the month of April, and towards the middle of the month; that is all I can say.

Langhorn. But how is he sure, since he is so uncertain in his memory, that this was 1678, and not 1677?

Walker. Because my lord, it was but a little more than a year since, and I am able to judge of the year as well as another.

L. C. J. Do you remember what you went about?

Walker. I was wont, about that time of the year, to receive money of my lord Thomas Howard, and upon that errand I came to town then.

L. C. J. But are you sure it was Mr. Oates that you saw?

Walker. Yes, my lord, for according to my apprehension I did know the face when I first saw it, but I could not recollect who it was till I had refreshed my memory, and the next morning I did so, and then concluded it was he.

Justice Dolben. How came you hither?

Walker. I was brought here for a witness.

Justice Dolben. Did you discover this to Mr. Oates or did Mr. Oates first come to you, to put you in mind of it?

Walker. I had discoursed with some persons about it, awhile after the plot was discovered, and so I suppose it came by accident to him.

Then Mrs. Ives was sworn, and stood up.

L. C. J. Well mistress, what say you?

Ives. This is the gentleman that told me this business.

L. C. J. What did he tell you?

Ives. He asked me when I saw Titus Oates? I told him I had not seen him a long time, that he was gone beyond sea: He asked me, if I never saw nor heard from him since? I told him, No; but of late some of his friends had told me, that he was about the town, and that they had seen him, but they did not know

the place where he lodged. Then, said he, I have seen him since you; for I was yesterday going in Leicester-fields, and going along I saw him, for he was in coloured clothes, and very much altered from what he had been.

L. C. J. When was this? How long was this ago?

Ives. It was about the middle of April was twelvemonth, and I remember it by a very good token; for his father Mr. Oates came then to my house to see me, and that is the first month that our new thin cheeses come in, and I did then ask him, if he would not come in and eat some new thin cheese; and when he was come in and sat down eating of cheese, and drinking a draught of drink, I was a saying to him, pray, sir, when did you see your son? Said he, I have not seen him of late, I heard from him a little while ago, but I have not seen him: Then said I, I can tell you news of him. Here was such a gentleman in my shop that says he met him in Leicester fields, but in a disguise, and he told me what habit he was in.

Sir Cr. Letinz. Set up Butler. [Who was sworn.]

L. C. J. How long have you known Mr. Oates?

Butler. I have known him two or three years before he went to sea.

L. C. J. When did you see him last year?

Butler. When he came back, he came to my master's house the beginning of May last was twelvemonth.

L. C. J. Who is your master?

Butler. Sir Richard Barker, my lord.

L. C. J. What did he come there for?

Butler. He came to enquire for Dr. Tongue.

L. C. J. Did you know him?

Butler. Yes, I did.

L. C. J. Are you sure that is he?

Butler. This is the gentleman.

L. C. J. And what said he?

Butler. I was in the gate about my coach, and he comes in and asked me if Dr. Tongue was within. I told him, no; at present I did not know him, because he was in such a disguised habit; I knew him very well before, because he went in such a habit as he does now: but this is the man, and Titus Oates is his name. Said I, 'Mr. Oates, you are welcome into England again,' but he took no notice, but went forward into the house, but he made but a little stay there and came out again; it seems somebody had affronted him, and laughed at him, because he was more like a shepherd than a minister: his hair was cut and he had a gray coat on, and plain shoes, and a flapping hat; and so he went out of the gate, and would not take any notice of me, or what I said.

Langhorn. How does he know it was in 1678, and not in 1677? he says it was in the month of May was twelvemonth.

Butler. I know it by this circumstance: in February I went down into Lincolnshire, and I came up again the same month: sir Richard Barker was then sick and in the country, and

there he was a great while; and when he came to town I did acquaint my master that Dr. Oates was there to enquire for Dr. Tongue, in the strangest habit that ever I saw man in my life.

L. C. J. How long after he had been there was it that you did tell your master?

Butler. It was as soon as my master came back, as soon as I saw him, it might be a week.

L. C. J. Was it about a week or a fortnight?

Butler. I do not know exactly.

Mr. Belwood. Then swear Cicily Mayo. (which was done.)

L. C. J. Do you know Mr. Oates?

Mayo. I never saw his face before that time, nor had I taken notice of him then, but that there was a young man that lived with sir R. Barker who had a great acquaintance with him, and seeing him in that garb he called me to the window, and said, Mr. Oates is surely turned Quaker or Jesuit by the change of his habit: no, said I, he is no Quaker, for he hath got a periwig on.

L. C. J. Maid, when was this?

Mayo. This was before Whitsuntide.

L. C. J. Which Whitsuntide?

Mayo. Whitsuntide was twelvemonth.

L. C. J. How long before that was it?

Mayo. It was a matter of a fortnight before as I remember.

L. C. J. Are you sure you know him now?

Mayo. Yes, this is the man.

L. C. J. North. Did you tell your master of it?

Mayo. I was not so well acquainted with him as to speak to sir R. Barker about it, but the other servants, they told him.

Mr. Belwood. Set up Phillip Page. [Who was sworn.] Do you know Mr. Oates?

Page. Yes, my lord, I have known him these five years.

L. C. J. When did you see him?

Page. About May was twelvemonth.

L. C. J. Where?

Page. In sir R. Barker's house.

L. C. J. Are you sure this was the man?

Page. Yes, I am sure it was he.

Langhorn. What time in May was it?

Page. About the beginning of May.

L. C. J. And you take it upon your oath that you saw Mr. Oates the beginning of May was twelvemonth in sir R. Barker's house?

Page. Yes, My Lord, I do.

Justice Atkins. What is become of the boy that spoke to the woman about him?

Mayo. He is dead, my lord.

Sir Cr. Levinz. Then swear sir Richard Barker. [Which was done.]

L. C. J. Do you know Dr. Oates, Sir?

Sir R. Barker. I have known him these many years, I have known him from a child.

L. C. J. Did you see him about a year ago?

Sir R. Barker. My lord, I did not see him then; I was out of town; but as the servants tell your lordship, so they told me, when I came home, that Mr. Oates had been there in a

strange kind of habit, that he was either turned Quaker or Jesuit. I did very much admire at it, for I had seen his father but a little while before, and he told me nothing of it, I had a mind to have given him a living while he was in our church.

L. C. J. When did your servants tell you they saw him?

Sir R. Barker. They told me when I came home, which was in the latter end of Whitsun-week, or the beginning, as I remember.

L. C. J. Was it in Whitsuntide?

Sir R. Barker. It was about that time; they told me the odd kind of posture he was in, and that young fellow that they speak of, told me several passages of Mr. Oates. (He is now dead.)

L. C. J. But when did they speak of it to you?

Sir R. Barker. My lord, when I came home, two or three of them told me of it with great admiration, as they have told your lordship and the Court; and I said to one of them, 'What! did he leave no message?' They told me he enquired for Dr. Tongue, and asked for me, but that was all they told me.

L. C. J. Come, was it in May?

Sir R. Barker. Yes, my lord, it was in May was twelvemonth.

L. C. J. How do you know it was May was twelvemonth?

Sir R. Barker. It was last year about the beginning of May.

L. C. J. North. Nay, he tells you this, when you asked him the question, Whether he knew Mr. Oates? Yes, said he, I did know him formerly; and when he was of our church I did intend then to have given him a benefice.

Langhorn. Certainly his change, that is, his becoming a Roman Catholic, could not be a thing so strange that he should intend then to give him a benefice.

Justice Atkins. But hark you, Sir, I suppose you remember it by your own sickness very well?

Sir R. Barker. Yes, my lord, very well; I had a little distemper upon me, and Dr. Needham of the Charter-house came to see me; and I lay sick a matter of six or seven weeks, and the latter end of my sickness I continued taking of physic till I came to town.

L. C. J. But you are sure of the year by that?

Sir R. Barker. Yes, my lord; and yesterday I should have acquainted your lordship and the Court, that there are some persons not unknown to some of the bench, if not near allied to them, and that is sir William Tyrrel's family, of Lincolnshire, his grandson, who had been at Cambridge and then came to visit me, though I happened not to be at home, they being my wife's relations; and it was before Whitsuntide, because he came to take the advantage of that season of the year: and he had conversed with Mr. Oates, but he is not in town at present; and there are two or three of the university that conversed with Mr. Oates at that time.

Justice Pemberton. Are they here?

Sir R. Barker. I only tell it you for a circumstance.

Sir Cr. Levinz. Then set up Mr. Clay. [Who was sworn.]

L. C. J. Do you know Mr. Oates?

Clay. Yes, I know him very well.

L. C. J. How long have you known him.

Clay. Since last April was a twelvemonth.

L. C. J. Where did you see him then?

Clay. I saw him at Mr. Howard's, my lord.

L. C. J. What Howard? One of my lord of Norfolk's brothers?

Clay. Yes, my lord.

L. C. J. What is his Christian name?

Clay. His name is Mr. Charles Howard, my lord.

L. C. J. Where was it?

Clay. In his house.

L. C. J. Where was his house?

Clay. It was part of Arundel house, it is now made a new street.

L. C. J. Did you speak with him there?

Clay. Yes, we saluted one another, and he said, Your servant, Sir. I am sure I saw him there.

L. C. J. How often did you see him in that house?—Clay. Twice.

L. C. J. In April and May?

Clay. Yes, in April, and in the beginning of May.

Langhorn. I ask you if you do remember any circumstance of it, to bring this to your memory?

L. C. J. By what token do you remember it, that it was April and May?

Clay. By this token, that Mr. Charles Howard told me he was one that was come from beyond the seas, from St. Omers; And, said he, he hath some thoughts of being a Jesuit, but I think I shall divert him from that.

L. C. J. How do you know that it was that month?

Clay. It was in the latter end of April, and the beginning of May.

Just. Dolben. Are you sure it was last year?

Clay. Yes, I am, it was in the year 1678.

Langhorn. Was it at dinner, or no?

Clay. No, no.

Langhorn. Did he dine there that day?

Clay. I did not see him at dinner, but I saw him there twice.

L. C. J. Are you a Roman Catholic?

Clay. Yes, I am of the church of Rome, but not of the court of Rome.

L. C. J. That is no new distinction.

L. C. J. North. No, they have the court of Rome distinct from the church, and particular favourites of it, as other princes have, and there are those that profess themselves of that religion, that won't acknowledge the exorbitant power that the pope claims.

Langhorn. Will your lordship please to ask him; whether he does remember that Mr. Oates did at that time play with Mr. Howard's son; and instruct him, and talk to him about his learning, and put questions to him?

L. C. J. Did he talk or put any questions to Mr. Howard's son about learning his book?

Clay. Not any thing that I heard.

Langhorn. Was Mr. Howard's son there?

Clay. No, not in the room, as I think; I cannot tell certainly, my memory is frail.

Then Mr. Smith was called and sworn.

L. C. J. How long have you known Dr. Oates?

Smith. I knew him before the Fire, he was my scholar at the school where I was usher.

Justice Pemberton. What time did you see him last year?

Smith. The beginning of May.

Justice Pemberton. How do you know that?

Smith. He came to see me, and dined with me.

L. C. J. Where?

Smith. At Islington, at my house there.

L. C. J. How long was he with you?

Smith. Three or four hours.

L. C. J. What time was it?

Smith. It was, as I take it, the first Monday in May, and I gave this reason for my remembrance, why it was in May, because we dined by the fire-side, being a little cold, of which we took particular notice.

L. C. J. And you wondered that you should dine by the fire-side in May?

Langhorn. Was it on a Monday in May?

Smith. It was on the first Monday in May, to the best of my remembrance.

L. C. J. Was there none of the family there besides?

Smith. Yes, there was my wife there.

L. C. J. Why did you not bring her to testify the same?

Oates. He cannot find his wife.

L. C. J. North. How long do you say was he with you?

Oates. Three or four hours.

L. C. J. What did you talk of?

Smith. We talked about his travels, about his journey into Spain, and to Valladolid, and Salamanca.

Justice Pemberton. Was he in a priest's habit, or in another habit?

Smith. My lord, he was in a cinnamon-coloured suit, trimmed with green ribbons.

Sir Cr. Levinz. We have done with our evidence, my lord.

L. C. J. Now, Mr. Langhorn, the king's counsel have done with their witnesses.

Langhorn. Pray call Mr. Charles Howard and his wife.

L. C. J. I do not think Mr. Charles Howard will appear.

L. C. J. North. I believe he does not think it safe to come here; we know upon what account.

But upon calling, after a while, he did appear and stood up.

L. C. J. Well, what have you to say to Mr. Howard?

Langhorn. The question that I would ask him is this: It hath been affirmed here by Mr.

Clay, that old gentleman, that about the end of April, or beginning of May last was a twelvemonth, he did meet Mr. Oates at Mr. Howard's house; I would know the truth of it.

L. C. J. Mr. Howard, you have heard the question, do you know Mr. Oates?

Howard. Yes, my Lord, very well.

L. C. J. How long have you known him?

Howard. Above two years.

L. C. J. When was he at your house?

Howard. My lord, he hath been at Arundel house about two years ago, and several times since.

L. C. J. Was he there about a year ago?

Howard. Thereabouts he was.

L. C. J. Do you think he was there about May wastwelvemonth?

Howard. My lord, after July I remember he was there.

L. C. J. Was he there in May?

Howard. No, my lord, not to my remembrance.

Langhorn. Pray, Sir, when did your son die?

Howard. The 5th of May was two-year, 1677.

L. C. J. Why, how does that appear to be any thing in this case? he did not say that Mr. Howard's son was there.

Langhorn. He said, he was in the house, but he could not tell whether he was in the room or no.

L. C. J. You asked him whether he talked any Latin, or asked him any questions; and he says, he cannot tell whether the son were there in the room or no.

L. C. J. North. He says 'About two year ago I remember he was at my house, and 'about a year ago;' which contradicts all your witnesses.

Langhorn. No, he says, 'About two years ago I remember he was there, and about a twelvemonth ago, after July;' but he cannot remember whether he was here in April and May was a twelvemonth.

Howard. Mr. Oates was in my lodging in April 1677, and then my child was alive, and dined together with him and Mr. Clay.

L. C. J. That is two years ago.

Howard. Yes, my lord, two years ago Mr. Oates was there with Mr. Clay, but not since.

L. C. J. Call Mr. Clay again to confront him in that.

Oates. I did not know Mr. Clay two years ago.

L. C. J. You are mistaken, I believe, for Mr. Clay does pretend that he did but just begin to know Mr. Oates in April was a twelvemonth, and so Oates swears too.

Just. Pemberton. And he says nothing whether you had a child died or no.

L. C. J. When was the time that you first knew Mr. Oates?

Clay. The latter end of April, last year.

L. C. J. Did you ever know him before that time?

Clay. I never did.

L. C. J. Do you remember that ever you dined with him?

Clay. I do not remember the day exactly, and I do not remember that ever I dined with him.

Just. Pemberton. But he is positive that he did not know him but a year ago.

L. C. J. Do you remember whether Howard's son was alive?

Clay. He had a son alive at that time.

Oates. He had one son indeed that died a year before Mr. Clay and I met there.

Howard. I speak of my eldest son, who died two years ago.

Clay. I never knew him.

L. C. J. Well, it is plain there was a mistake in it, he spoke of a son that was then, and is now alive, and you speak of your eldest son that died two years ago. Have you any more witnesses, Mr. Langhorn?

Langhorn. No, my lord, I have no more witnesses.

L. C. J. Well, would you say any thing? If you would, say what you have a mind to say.

Langhorn. My lord, I am charged here by two witnesses, the first is Mr. Oates; if I can prove any one point (in answer to that which he hath given in evidence) not to be true, then I conceive, my lord, he ought to be set aside: And I think it hath been clearly proved, That whereas he said sir Thomas Preston came over with him in April, it hath been clearly proved he was then at Liege; and whereas he hath affirmed, sir John Warner, Mr. Poole, and two or three more that were at St. Omers, came over with him, I had proved that not to be true, beyond any contradiction: Then, as to the witnesses about his own not coming over in April, Mr. Hilsley says he came not over with him in the packet-boat; and the others say that he was sick in the Infirmary after Mr. Hilsley came away: These points being thus proved, I think there can be no credit given to what he says; for I can say, and I know it to be truth, that from November 1677, to this very day, I never saw him. I have been a close prisoner so long, and have had but one week's time to provide, and therefore must be fain to take such information as my friends and relations could pick up, to answer what he hath said in his Narratives, supposing he would have said the same here; therefore I am not able to make any better defence.

L. C. J. Did you never know Mr. Oates?

Langhorn. I have seen him once or twice.

L. C. J. When was that?

Langhorn. In Michaelmas-Term, 1677.

L. C. J. Upon what occasion?

Langhorn. He brought me a letter from one of my sons, my younger son in Spain, and then he told me he was going to St. Omers: he said he could not be settled in any of the colleges in Spain, and therefore he would go to St. Omers: and from that day I never saw him till I saw him in the court: I hope, truly, I have well proved that he was not here in England when he says he was, but that I must leave to the jury: but surely these boys cannot be supposed to have any design, or to be bribed

by any reward, for I never saw the face of any of them till now.

L. C. J. North. They are all papists, and speak in a general cause.

Langhorn. If that be an objection against them I think it is hard if they are not to be believed because they are papists and friends; then the other, on the contrary, are not to be believed because they are enemies: I think it is clear that he did not lodge at Grove's house; and I think it is clear that he did not come over in the packet-boat with Mr. Hilsley, and that sir Thomas Preston did not come over with him, nor Warner, nor Poole; and if any of these points be clear for me, I think his testimony ought to be set aside. Now, as to what Bedlow says, in truth it is impossible for me to examine any witnesses, and that I think will be your lordship's opinion; it will not seem probable that one that was in my way of practise should become a clerk to register letters, and to keep accounts of any particular religious order, as he makes me to do; or, if I were, that I should admit Mr. Bedlow to be privy to those accounts; but that I must leave to the court; my lord, it is impossible to prove a negative: Mr. Bedlow is a person that I have no acquaintance with; truly I do not know that ever I saw him before this time in all my life; though it is possible I may have seen him, but I do not know that ever I did: now, that I should admit such a person to such a privacy in accounts of this nature, (if I were guilty of them) seems very improbable; but yet, as I said, it is impossible to prove a negative. If I had known what he would have charged upon me before, perhaps I might have made a better defence; and for those witnesses that I have had, they were prepared by such friends as thought they would be useful for me. These men have had time to get their witnesses together: I never saw one of mine till they came into the court. I hope, my lord, I shall find no disadvantage in my coming here upon the account of my religion, for that would seem as if you condemned me merely for that; I disclaim all principles of disloyalty; and I do assure your lordship, I do believe it is damnation to any one that shall go about to kill the king, or deprive him of his government; I shall leave the rest to your lordship and the jury.

L. C. J. Look you, gentlemen, you have had an account, in the first part of the evidence, in general, that there was a general design of bringing in Popery; and in order to that, as the best and quickest means to accomplish it, to destroy the king. And without doubt they were in the right, for that matter: to destroy the king, was the most effectual course to introduce popery they could take. Whether they would do it, or no, is not now any question; but, How much Mr. Langhorn, the prisoner at the bar, is concerned in it? And that depends upon the testimony of witnesses.

The testimony that Mr. Oates gives against

him, amounts but to thus much: I cannot affirm, says he, that Mr. Langhorn was at the consult, on the 24th of April, at the White-horse tavern, where they signed the agreement to destroy the king: but this I can say, That the next day, or within a day or two, I went, by order from the Fathers, Whitebread and Harcourt, to Langhorn's chamber, and acquainted him with what they had agreed upon. And he swears, That Mr. Langhorn did lift up his hands and eyes, and pray to God to give them good success. He tells you further, that after some talk with him, about bringing in of popery, and destroying of the king, he had also discourse concerning several commissions; that he saw about seven or eight of them, and that he told him, he had more: one for my lord Bellasis, to be general, and one for himself to be advocate-general, with others; but those, he says, he saw and perused them: and though he does not know of the delivery of those several commissions, yet he does know of the delivery of one to his son, to be carried to my lord of Arundel's eldest son: and he does say, That Mr. Langhorn did tell him, he had sent it; and swears, that he had some discourse with him, concerning killing the king.

Bedlow, he comes, and swears, that he was there twice, and that he saw him transcribe letters; and that the effect of one of them was, that they were prepared with arms, and all things, but money. That the garrisons also were ready to be delivered up to them, but they staid only for this, and 6,000*l.* would do it, which the Benedictines were to raise. If that came, then there was nothing wanting. They had an easy king, whom they could destroy as they pleased; an army in readiness, everything in good posture, and no time like this, to bring in popery: which discourse, he says, was before Mr. Coleman. Here is the effect then of those letters which by him were written into a book, and in which this Plot and this contrivance was mentioned. These were transcribed by Mr. Langhorn, says he, while Mr. Coleman and I walked in his chamber. I saw him write them. And he swears it.

Now the matter is this: if these two witnesses do swear true, then is this indictment of treason highly proved. For the contriving, to bring in popery, to levy war, and, to kill the king, (which, when he was acquainted withal, he lift up his hands and eyes, and begged of God to give it good success; and which Bedlow says, was the effect of the letters that he transcribed into the book) Mr. Langhorn himself will not deny to be high-treason: and when this is sworn here by two witnesses, he must either invalidate their testimony, or acknowledge it just, if you find him guilty of the indictment with which he is charged. Now the question is, what defence there is against it?

Mr. Langhorn says, If I can disprove a witness in any one material thing that he says, then will it take off from his credit in every thing he says. And first as to Mr. Oates;

saith he, I did know him, I must confess, but I never saw him since the year 1677. The thing that Mr. Oates charges him with, is in April or May 1678, or thereabouts. And Mr. Langhorn says, he never saw him since 1677. Why, Mr. Oates, saith he, was not here in England; and produces a great many witnesses, that came from beyond sea, to testify, that Mr. Oates was there in April and May, and longer. And whereas Mr. Oates says, that there came over in his company with him, sir John Warner, sir Thomas Preston, Mr. Poole, and others; he proves by some witnesses, that Mr. Oates was there both months; and by others, that sir John Warner was at Watton, and sir Thomas Preston at Liege, and Poole at St. Omers, at the time that Mr. Oates says they came over with him: and this, says he, I hope will be plain evidence why you should not believe Mr. Oates; and the rather, because these witnesses are such, says he, as that I do not so much as know their faces; and you will not presume, that people to whom I am wholly a stranger, should come hither from St. Omers to testify a lie for me.

In answer to this, I say, it is no good argument for all that; for though I believe they are strangers to him, they are not strangers to the errand they came about. They came to defend all the Roman Catholics, whom we would hang here for a Plot; and they are sent over for that purpose, as far as their testimony can go. How far that is, though they are not upon their oaths, (for the law will not permit it) I must say to you, in favour of the prisoner at the bar, as I did to the jury yesterday, you must not take it, therefore, as if it were mere talk, and no more; nor reject them too much because they do not swear: They would swear, it is likely, if the law would allow it. Only one remark I must observe to you upon their own evidence: the St. Omers gardener (which is one of them) takes upon him to give a very exact account of Mr. Oates, in the months of April and May; but when I came to enquire, what he knew of him in the months of June and July; he tells you, those were not the months in question.

But on the other side, did not the principles of their religion so teach, and make us to know, that they will not stick at any wickedness to propagate it: did not the best and chiefest doctors of their church preach and print it: did not his holiness the pope allow it; and never condemn any one book in the world that hath asserted the lawfulness of deposing and killing kings, for separating from their religion: did not they teach and practise all sorts of equivocations, and that a lye does God good service, if it be for the propagation of the faith: were not these young boys capable of having this doctrine instilled into them; and, were not they bred up in colleges chiefly to serve that end; then Mr. Langhorn had said something. Neither are these things artificially objected against them, for the doctrines of their church are so false and pernicious, so

destructive and so bloody; and the way they take to come off from all vows, oaths, and Sacraments, by dispensations before-hand, or indulgence and pardons afterwards, is a thing still so much worse, that they are really unfit for human society. They should get their pope, if they would not have it thrown into their dish, and have it believed by us; I say, they should get the pope of Rome to decry and anathematize such doctrines of deposing and killing kings, and discharging subjects from their allegiance: but that will never be; for his holiness the pope will keep himself where he is, and will part with nothing that he hath of advantage over any.

Look you, gentlemen, thus much I cannot omit, with a good conscience, to say, the profession, the doctrines, and the discipline of the church of Rome is such, that it does take away a great part of the faith that should be given to these witnesses; nevertheless we must be fair and should hear them, if we could not answer what they alledge, by evidence to the contrary. Mr. Oates, therefore, to justify himself, hath produced, I think, seven or eight witnesses, that do prove that he was here in the latter end of April, and beginning of May, which does contradict all their testimony, who do say, he was abroad all along from December to June, and that they saw him every other day!

It is true, if we were certain that what these young men spake, were indeed so as they say, it is impossible for Mr. Oates's testimony to be believed. If I were satisfied, that really and truly Mr. Oates was not here, but was six months together there, and that he hath invented this story, and made this himself; I could no longer confide in the man nor find Mr. Langhorn guilty: yet is not the time really the substance of the thing, though he hath made it so now, because the consult was the 24th of April, at which he was present; and he did go, he says, to Mr. Langhorn, within a day or two after, to acquaint him with the resolution of it.

To this end hath Mr. Oates produced seven or eight witnesses that saw him, as they swear. He hath produced a minister, that says he saw him in a disguise, but having known him before recollected him to be the man. He hath produced a woman that agrees with that story; for she says, that he came and talked with her about it, and told her then, that he had seen Mr. Oates the day before, and gives you a token why it was about that time of the year. Now, if this be not a new matter, and new found out, this woman (if she swears true) does justify the other in what he did say a year ago, when they could never imagine that any great weight and moment should be laid upon that accident of his seeing Oates in the street. He hath produced to you the coachman of sir Richard Barker, that says, he knew him well when he came to his master's house. There he called him by his name, that asking for Dr. Tongue, but not finding him within, he went

away presently; that he was in disguise; that they acquainted their master with it, as soon as he came home; and their master says, that so they did. And the person that then lived in the house, and now is dead, said to the maid, Yonder is Mr. Oates, I think he is either turned quaker, or priest; what a kind of habit he is got into! No, said the maid, he can't be a quaker, because he wears a periwig; but she says, he named him to her, Oates, and that this is the man, she knew him since. It is the same man that the young man spoke to her about.

He hath produced farther one of their own religion, one that is a papist still, and he says he saw him twice at Mr. Charles Howard's in Arundel-House. There was indeed some perplexity they would have put upon it, by reason of Mr. Howard's son being dead a year before; the witness says he did not know the son. A papist he confesses himself expressly to be, if not a priest; and I would not ask him the question, because it is not fair to make him accuse himself: but he does swear expressly, he saw Mr. Oates at Mr. Charles Howard's in April or May, which contradicts all their witnesses. He also produces a schoolmaster, that tells that he dined with him the beginning of May: and I remembered it, says he, very well, for we dined by the fire-side, which gave me occasion to wonder at it, in May, and remember it. He says, moreover, that he staid three or four hours with him, and talked of all his travels in Spain. Now must all these people be downright perjured; it can be no mistake but they are all falsely sworn if there be not truth in it. And when here are seven or eight witnesses positively swearing against the affirmation of so many others, we leave the credit of both sides to you who are the judges of the fact.

There is indeed (and I will repeat it for you, for I would not miss any thing, as near as I can, that would make for the prisoner's advantage) there is a proof concerning sir John Warner, and Preston, and Poole, that they were there at the time, and there hath been no answer given to it: but I say still, it is the same thing; for if you do not believe those witnesses to speak true, that affirm that Oates was there all the time, but rather believe that he was here by seven or eight people that testify it, I say, if you cannot believe he was there, you will never change your mind for one circumstance.

Langhorn. They are not the same witnesses.

L. C. J. It is true, they are not; you have four or five witnesses that speak apart, but two of them do say, that they knew Oates also was there at the same time that they speak that sir John Warner was at home.

Langhorn. Not those two of Liege, my lord, about sir Thomas Preston.

L. C. J. No, they do not, for I leave it to you of the jury, upon the whole matter; there is little more to be said by me. If so be credit is to be given to these witnesses of Oates

more than to the others, then you must find him guilty, and the rather, because I do a little suspect, they come over instructed, to say what they do. You find they apply themselves to the thing they came for; and not only the gardener but another could tell you (which hath a very great influence upon me; as to their credit) that the months of April and May were the months in question, and they were not to be examined any farther. So that it looks as if these young men were sent of an errand; and though you do not know them, Mr. Langhorn, and are innocent as to any tampering with them, yet I am afraid they are come to serve the Catholic cause, as they call it. For they are very well taught, and they keep to those months of April and May, of all the months in the year. Then they bring the woman of the White-Horse-tavern, where the consult of the 24th of April was; and what is the use they would make of her? Why, it is that Mr. Oates should make a story of fifty fathers being in her tavern at one time (but he insists now there was a matter of twenty) when there was not a room in her house that would hold ten: but you hear how she was answered, from testimony rising up in the court of themselves, that were acquainted with her house, and know, that forty people may dine in two of her rooms, and the king's counsel observed well, how chance itself hath put to silence this evidence. So that when matters are alledged to be done at home there is not so great a difficulty as in proving things that are done abroad.

I leave it to you, Sirs. Here is a gentleman that stands at the bar, upon his life, on the one hand; but if Mr. Oates says true, all our lives, and liberties, our king, and religion, are at the stake, on the other hand. God defend that innocent blood should be shed, and God defend us also from Popery, and from all popish plots, and from all the bloody principles of papists, which are very cruel, as we know by experience; and you cannot blame us to look to ourselves. For I must tell you, the Plot is proved as plain as the day, and that by Oates; and farther, Oates's testimony is confirmed by that which can never be answered. For when he comes at his first testimony, and says, that upon the 24th of April, such a consult was summoned, and held, it falls out, that five days after a letter is found amongst Harcourt's Papers, (a principal person in the design), which does order the meeting upon the 24th of April, being the day after St. George's feast, and gives them a caution that they should not come too soon to town; that they should not appear too much in London, for fear of discovering the design, and of disclosing 'That, the nature of which requires secrecy.' Plainer than this is hardly to be writ from a Jesuit, especially in so dangerous a matter. And what can be answered to this letter, that is found in a priest's hands, four days after Mr. Oates had given in his information about it?

Put all this together, and if you be satisfied herein, you may judge the better, as to the par-

ticular business of Mr. Langhorn, how far the testimony of Oates and Bedlow affect him. You know what you do. And for Bedlow, it is true, what he says, that there is nothing to be said to his evidence, because no man can prove a negative; and he swears expressly, that he had this discourse with him, of these treasonable matters, killing the king, and altering religion. If this be so, and you are satisfied in that particular, (and that a man may very well be, as to the substance,) I do not see any considerable answer that is given. I say once more, there is the life of a gentleman at stake, and there are all our lives at the stake: Follow you your consciences; do wisely, do honestly, and consider what is to be done.

L. C. J. North. With my lord's leave, because there hath been mention made of this letter, which goes much in confirmation of Mr. Oates's testimony; it is in Court, but it hath not been produced at the bar, I desire it may, if your lordship please.

Sir Cr. Levinz. It is here in Court, my lord, we will give your lordship an account how we came by it. Swear sir Thomas Doleman, Which was done.

Sir Cr. Levinz. Sir Thomas, did you find the Paper amongst Mr. Harcourt's Papers?

Sir Thomas Doleman. I found this letter among the papers of Mr. Harcourt, that were committed to my search.

L. C. J. When did you find it, Sir?

Sir Thomas Doleman. It was some 5 or 6 days after Mr. Oates had given in his information to the king and council.

L. C. J. Do you mark it, Gentlemen? After Mr. Oates had told the council of the consult on the 24th of April, is this letter found.

L. C. J. North. It is in confirmation of Mr. Oates's testimony.

[Then the Letter was read, being the same with that in page 350 in the Trial of Whitebread, Harcourt, &c.]

L. C. J. This letter is only as to the Plot in general, and not to be applied to Mr. Langhorn in particular.

Langhorn. Mr. Oates might very well be able to speak of this meeting of this congregation, as they call it, before this letter was taken, it is easy to believe, because Mr. Oates being at St. Omers, I suppose the like letters of summons might come over to St. Omers, to fetch some of them over hither.

L. C. J. You say well; but if you have but the luck to give me an answer to a thing or two, you will have better fortune, and more skill than the priests. It is true, he might, perchance, know of the consult, if he were at St. Omers: But will you tell us what that design was? And what is the meaning of putting those words into the letter, That they should not come too soon to London, nor appear too much about town, for fear of discovering that design, which they knew required secrecy in its own nature?

Langhorn. My lord, I will tell you what I take to be the meaning of that letter. The design, was the holding of a congregation: There were divers of them, and it was like the meeting of a dean and chapter in a college, and he bids them not to come too long before the time, for they were certainly in very great danger to be taken.

L. C. J. What! at that time? What danger were they in then?

Langhorn. Yes, my lord, the parliament was then sitting.

L. C. J. But you know what indulgence there was to all papists at that time, if they would be but quiet. Well, but put it all together, they were to come to London, not too soon, nor to appear too much, because the parliament was sitting, for fear of discovering the design. What, was that only for Mr. Whitebread, and his fellows, to make an officer! Can it be answered by that?

Langhorn. Certainly, their holding of a congregation in England does require secrecy.

L. C. J. Gentlemen, here is the thing, this is only an evidence to the Plot in general, that there is a Plot, and you may make what reasonable use you think fit of it. It is not a particular evidence against Mr. Langhorn's particular person, only it shews there was a Plot, and you have heard what they say to him in particular about it. And I will tell you one thing more, which if Oates swears true, concerns you very much. He saith, they were a talking of the ten thousand pounds that sir George Wakeman was to have for poisoning the king, when their other attempts had failed, and that he would not take under 15,000*l.* You, Mr. Langhorn, was very angry, and said it was a base, covetous thing in him; and it being such a public cause, it would have been no matter if he had done it for nothing. I have repeated as much as I can well remember, without any prejudice to Mr. Langhorn's testimony. And so I leave it with you.

[Then an officer was sworn to keep the jury, who withdrew to consider of their Verdict; and the Judges also went off from the Bench. The Lord Chief Justice telling the Auditory, that the day being so far spent, and the commission determining that night, because of the term, sir George Wakeman, and the rest, could not be tried till next sessions. And after a short space the Jury returned, and answering to their names, delivered in their Verdict.]

Clerk of the Crown. Gentlemen, Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of Cr. Who shall say for you?

Omnes. Foreman.

Cl. of Cr. Richard Langhorn, hold up thy hand. Look upon the prisoner: You of the Jury, how say you? Is he Guilty of the High-Treason whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What goods or chattels?

Foreman. None, to our knowledge.

Cl. of Cr. Hearken to the verdict, as the Court hath recorded it; You say that Richard Langhorn is Guilty of the High-Treason whereof he stands indicted: but you say that he had no goods or chattels, lands or tenements, at the time of the High Treason committed, or at any time since, to your knowledge. And so you say all?

Omnes. Yes.

Recorder. It is a verdict according to the justice of the evidence. (Upon which there was a very great shout.)

Then Mr. Recorder sent for the prisoners convicted before, to receive their Judgment; and they were brought to the bar, and the Court proceeded thus:

Cl. of Cr. Richard Langhorn, hold up thy hand: Thou standest convicted of High Treason; what canst thou say for thyself, why the Court should not give judgment on thee to die, according to law?

Langhorn. I have nothing to say.

Cl. of Cr. Thomas White, otherwise Whitebread, hold up thy hand: Thou standest convicted, in Middlesex, of High Treason; what canst thou say for thyself, why the Court should not give judgment on thee to die, according to law?

Whitebread. I can say nothing.

Cl. of Cr. John Fenwick, hold up thy hand: thou art in the same case with him that went last before thee; what canst thou say, &c.?

Fenwick. I have nothing more to say.

Cl. of Cr. William Harcourt, hold up thy hand: thou art in the same case with the two that went last before thee; what canst thou say, &c.?

Harcourt. I have nothing at all to say.

Cl. of Cr. John Gavan, hold up thy hand: thou art in the same case with the three that went last before thee; what canst thou say, &c.?

Gavan. I have nothing more to say, than I did say. God bless the king and the kingdom.

Cl. of Cr. Anthony Turner, hold up thy hand: thou art in the same case with the four that went last before thee; what canst thou say, &c.?

Turner. I have nothing to say.

Cl. of Cr. Then, Crier, make proclamation of silence while judgment is given, upon pain of imprisonment. (Which was done on both sides of the Court.)

Recorder (sir George Jefferies). You the prisoners at the bar: You have been severally arraigned, and now are severally convicted of High-Treason: and that attended with all the ill circumstances that can be possible to aggravate so high a crime. You attempted the life of the best of kings, who was full of mercy and compassion, even to you, under whom you might still have lived peaceably and quietly, had not your own malice and mischiefs prevented it. Nor were you satisfied with that

alone; for you intended thereby to make way for the destruction of the greatest part of the kingdom, by a public massacre, by cutting the throats of all Protestants; for that also appears to be your design: to effect which, the nearest way and the best means you could think of, was first to kill the king. And this was to be done for the introducing of another religion, as you call it; which, as we think, we more properly call superstition; and so root out the best religion that is established among us by law. And I therefore call it the best of religions, even for your sakes; for had it not been for the sake of our religion, that teaches us not to make such requitals, as yours seems to teach you, you had not had that fair formal way of trial, and of being heard, as you now have been; but murder would have been returned to you, for the murder you intended to commit, both upon the king, and most of his people. What a strange sort of religion is that, whose doctrine seems to allow them to be the greatest saints in another world, that can be the most impudent sinners in this! murder, and the blackest of crimes here, are the best means among you, to get a man to be canonized a saint hereafter. Is it not strange that men professed in religion, that use all endeavours to gain proselytes for heaven, should so pervert the scripture (as I perceive some of you have done) and make that justify your impious designs of assassinating kings and murdering their subjects? what can be said to such a sort of people, the very foundation of whose religion is laid in blood? nay, lest you should not be able so easily to persuade them so cleverly to imbibe those bloody principles, you do absolve them from all the obligations that they remain under, of obedience to their sovereign; you do therefore from the pulpits publicly teach, that the oaths of allegiance and supremacy signify nothing. It is a strange religion, that applies every thing to these wicked and detestable purposes.

There is one gentleman that stands at the bar, whom I am very sorry to see, with all my heart, in this condition, because of some acquaintance I have had with him heretofore: to see a man who hath understanding in the law, and who hath arrived to so great an eminency in that profession, as that gentleman hath done, should not remember, that it is not only against the rules of all Christianity, but even against the rules of his profession, to attempt any injury against the person of the king. He knows, that it is against all the rules of law, to endeavour to introduce any foreign power into this land. So that you sinned both against your conscience, and your own certain knowledge. But your several crimes have been so fully proved against you, that truly, I think no person that stands by, can be in any doubt of the guilt: nor is there the least room for the most scrupulous man to doubt of the credibility of the witnesses that have been examined against you: and sure I am, you have been fully heard, and stand fairly convicted of those crimes you have been indicted for.

I rather mention these things to you, because I know not whether you will think it necessary to have any assistance, (I mean such assistance as by the law of the land is to be allowed to persons in your condition, of any Protestant divines, or of any other Protestants) to prepare you for another world. And though what hath been said proceeds from a layman, to you that are professed in religion, yet I hope it will not be thought amiss, it being intended for your advantage. Let that vast eternity that you are ere long to enter into, you are now on the brink of it; I say, let that prevail with you to consider, that there is a God in heaven, who will call you to an account for every one of those private consultations, of which we can never come to any certain knowledge. Though you have put all those obligations of secrecy upon your party, which religion could tie them by; though you give them the Sacrament, not only to oblige them to do wicked acts, but to conceal them when they are done; yet remember there is a God in heaven, from whom you cannot keep them secret. All your ties and obligations, all the dispensations that you can give to your inferiors, or your superiors to you, will never dispense with that account you are to give to the great God of heaven.

Gentlemen, with great charity to your immortal souls, I desire you, for the love of God, and in the name of his son Jesus Christ, consider these things; for it will not be long ere you be summoned before another tribunal about them: and great and dreadful is the day of judgment, at which you and all men must appear.

And I hope all persons that stand by, will take notice, that it is not the principles of the Protestant religion, to murder any, let it be upon their own heads that profess it, for we abhor these things. And we hope these public testimonies of our religion, and this fair sort of trial, will not only confirm those that are Protestants now, but will prevail upon those whom they have inveigled into their persuasion, to desert such a religion, till such time as they alter their principles, from the bloodiness and inhumanity they are stained with, and which these men have instilled into all their proselytes. And this I thought fit to premise to you in great compassion and charity. And I pray God it may have that effect which I designed; that is, that it may put you in mind of that great immortality that you are to enter upon ere long. And thus having given you this hint, and the law having had its course upon you, you have been fairly tried, fully heard, and have nothing to say why that judgment should not be pronounced, which the law hath designed against such offenders: I am, therefore, in the name of the Court, to do the duty which the law requires of the Court; and I do, in the name of the Court, pronounce this to be your Sentence:

That you be conveyed from hence to the place from whence you came, and from thence

you be drawn to the place of execution, upon hurdles; That you be there severally hanged by the neck; That you be cut down alive; That your privy members be cut off; That your bowels be taken out, and burnt in your view; That your heads be severed from your bodies; That your bodies be divided into four quarters, and your quarters to be at the king's dispose. And the God of infinite mercy be merciful to your souls.

After which there was a very great acclamation.

Whitebread. My lord, since we have not long to live, we desire we may have the benefit of the company of our friends, that they may be permitted to come at us.

Recorder. Yea, it is fit they should have the comfort of their friends and relations; and God forbid, but we should do all we can to make their passage as comfortable as may be. You must keep that decorum that becomes such as are in your condition. You know you are under the public notice of the world, therefore you must use the liberty that is granted to you with that moderation and prudence, that it is fit to use such a privilege with; for I shall not deny you any lawful favour.

Langhorn. Sir, there will be more people come to me than ordinary, in regard of their business, that I have had in my hands; I desire they may have the liberty to come to me.

Recorder. I would not deny Mr. Langhorn any thing that I could grant him: if it be any business that any person would have an account of, which you have been concerned in for them, they may be permitted to come to you.

Capt. Richardson. There is nobody to be in private with him, to say any thing but what I shall hear?

Langhorn. Yes, my lord, I hope my wife and children may.

Recorder. Yes, God forbid but he should have his wife and children with him.

Langhorn. Or any others, that come about business?

Recorder. Yes, captain, with the caution I have given you.

Then the Court adjourned for London, to Guildhall, the 14th of July, and for London and Middlesex, to the Old Bailey, the 16th of July next. And the Prisoners were carried back to the gaol.

On Friday, June 20, the five Jesuits were drawn upon three hurdles to the place of execution. In the first hurdle went Thomas Whitebread and William Harcourt; in the second, Anthony Turner and John Gavan; and in the third, John Fenwick. And being come to the place of execution they were all put into one cart. Then Gavan said, If God give us his grace, it is no matter where we die, at the gallows, or elsewhere. The Executioner fastening the halters, Gavan said, I hope you will be civil to dying men.

Executioner. I will be civil to you.

Gavan. I hope they will give us leave to speak.

*The Last Speech of THOMAS WHITEBREAD.**

I suppose it is expected I should speak something to the matter I am condemned for, and brought hither to suffer; it is no less than the contriving and plotting his majesty's death, and

* These Speeches were published at the time, with an Introduction, as follows:

"The Last *SPEECHES* of the five notorious *TRAITORS* and *JESUITS*: viz. Thomas White alias Whitebread, Provincial of the Jesuits in England; William Harcourt alias Harrison, pretended Rector of London; John Gavan alias Gawen; Anthony Turner. And John Fenwick, Procurator for the Jesuits in England: who were justly executed at Tyburn, June 20, 1679, for conspiring the death of his sacred majesty, and the subversion of the government and Protestant religion.

"If the most ignorant of criminals, when condemned to die, and just ready to undergo the deserved punishment of their offences, are always ambitious to extenuate the enormity of their crimes, wonder not then, that they who have assumed to themselves the dignified orders of religion and sanctity, together with the perfections of noble learning; and under that notion and coverture, to establish themselves in the absolute dominion of the souls and consequently the bodies of men; break all the fences and impalements of divinity and morality, and being brought to suffer for their so doing, make it their business to impose upon the spectators of their last behaviour. These people know that the last words of dying men bear a great sway amongst the living, and that the swanlike sentences of those that sing at their departure, being cunningly insinuated and politically made use of, penetrate more deeply than can be imagined in the hearts of the credulous and unstable. Upon these grounds, and with these aims, those persons so lately condemned by national justice, and warranted to execution; like men infected with the pestilence, who through the particular malice of that distemper labour to infect all persons that they come near, thought to have imposed their delusions upon the people, and by their ultimate farewells to the world, to have diffused the venom of their heresy through the veins of the whole nation. For could they but have purged away their crimes with the sweet hyssop of a fine speech, or blotted out the stains of their offences with an inveigling metaphor, then they thought they had done a great work: well knowing, that an opinion of martyrdom begets belief, and that belief is the mother of conversion. Thereby they had improved their happiness in conceit, and had shortened their journey to heaven by leaving purgatory on the left hand, as being such who had given a more deadly stroke, like Sampson, to their enemies, at their fall, than all the

the alteration of the government of the church and state. You all either know, or ought to know, I am to make my appearance before the face of Almighty God, and with all imaginable certainty and evidence to receive a final judgment for all the thoughts, words, and actions of my whole life. So that I am not now upon terms to speak other than the truth; and therefore, in his most holy presence, and as I hope for mercy from his divine majesty, I do declare to you here present, and to the whole world, that I go out of the world as innocent and as free from any guilt of these things, laid to my charge in this matter, as I came into the world from my mother's womb: And that I do renounce from my heart, all manner of pardons, absolutions, dispensations for swearing, as occasions or interest may seem to require, which some have been pleased to lay to our charge, as matter of practice and doctrine; but is a thing so unjustifiable and unlawful, that I believe and ever did, that no power on earth can authorize me, or any body, so to do. As for those who have most falsely accused me (as time, either in this world or the next, will make appear), I do heartily forgive them, and beg of God to grant them his holy grace, that they may repent their unjust proceedings against me; otherwise they will, in conclusion, find they have done themselves more wrong than I have suffered from them, though that has been a great deal. I pray God bless his majesty both temporally and eternally, which has been my daily prayer for him, and is all the harm that I ever intended or imagined against him. And I do, with this my last breath, in the sight of God declare, that I never did learn, or teach, nor believe, nor can, as a catholic, believe, that it is lawful, upon any occasion or pretence whatsoever, to design or contrive the death of his majesty, or any hurt to his person; but on the contrary, all are bound to obey, defend, and preserve his sacred person, to the utmost of their power. And I do moreover declare, that this is the true and plain sense of my soul, in the sight of him who knows the secrets of my heart, and as I hope to see his blessed face, without any equivocation, or mental reservation. This is all I have

years of their former lives ever gave them opportunity to do. But to prevent their intended mischief, and to advance an antidote against the spreading venom of clandestine transcripts conveyed from person to person, and consequently subject to those alterations, additions, and diminutions, as may be most advantageous to the interpreter, it may be presumed an act of prudence to divulge in season the most exact copies of these speeches which were intended for no good. An act the rather to be justified, in regard the best physicians always first describe the distemper at large, and then set down the prescription of the cure. Nor can it be unacceptable to good government, by lawful means to prevent the people from being deceived, where their deception may entice them to change and disobedience."

to say concerning the matter of my condemnation; that which remains for me now to do, is to recommend my soul into the hands of my blessed Redeemer, by whose only merits and passion I hope for salvation.

*The Last Speech of WILLIAM HARCOURT.**

The words of dying persons have been always esteemed as of greatest authority; because uttered then, when shortly after they are to be cited before the high tribunal of Almighty God. This gives me hopes that mine may be looked upon as such; therefore I do here declare, in the presence of Almighty God, the whole court of heaven, and this numerous assembly, that as I ever hope, by the merits and passion of my Lord and sweet Saviour Jesus Christ, for eternal bliss, I am as innocent as the child unborn of any thing laid to my charge, and for which I am here to die.

Sheriff How. Or sir Edmundbury Godfrey's death?

Harcourt. Or sir Edmundbury Godfrey's death.

Sheriff How. Did you not write that letter concerning the dispatch of sir Edmundbury Godfrey?

Harcourt. No, Sir; these are the words of a dying man, I would not do it for a thousand worlds.

Sheriff How. How have you lived?

Harcourt. I have lived like a man of repute all my life, and never was before the face of a judge till my trial: No man can accuse me. I have, from my youth, been bred up in the education of my duty towards God and man.

Harcourt. And I do utterly abhor and detest that abominable false doctrine laid to our charge, that we can have licences to commit perjury, or any sin to advantage our cause, being expressly against the doctrine of St. Paul, saying, 'Non sunt facienda mala, ut eveniant bona;' Evil is not to be done that good may come thereof. And therefore we hold it in all cases unlawful, to kill or murder any person whatsoever, much more our lawful king, now reigning, whose personal and temporal dominions we are ready to defend with our lives and fortunes, against any opponent whatsoever, none excepted. I forgive all that have contrived my death, and humbly beg pardon of Almighty God for them. And I ask pardon of all the world: I pray God bless his majesty, and grant him a prosperous reign. The like I wish to his royal consort, the best of queens. I humbly beg the prayers of all those who are in the communion of the Roman church, if any such be present.

The Last Speech of ANTHONY TURNER.

Being now, good people, very near my end, and summoned, by a violent death, to appear before God's tribunal, there to render an account of all my thoughts, words, and actions,

* In the report of the Speeches published at the time, he is called Harcourt alias Harrison.

before a just judge, I conceive I am bound in conscience to do myself that justice, as to declare upon oath my innocence from the horrid crime of treason, with which I am falsely accused: and I esteem it a duty I owe to christian charity, to publish to the world before my death, all that I know in this point, concerning those catholics I have conversed with since the first noise of the plot, desiring from the bottom of my heart that the whole truth may appear, that innocence may be cleared, to the great glory of God, and the peace and welfare of the king and country. As to myself, I call God to witness, that I was never in my whole life present at any consult or meeting of the Jesuits, where any oath of secrecy was taken, or the sacrament, as a bond of secrecy, either by me, or any one of them, to conceal any plot against his sacred majesty; nor was I ever present at any meeting or consult of theirs, where any proposal was made, or resolve taken or signed either by me or any of them, for taking away the life of our dread sovereign; an impiety of such a nature, that had I been present at any such meeting, I should have been bound by the laws of God, and by the principles of my religion (and by God's grace would have acted accordingly) to have discovered such a devilish treason to the civil magistrate, to the end they might have been brought to condign punishment. I was so far, good people, from being in September last at a consult of the Jesuits at Tixall, in Mr. Ewers's chamber, that I vow to God, as I hope for salvation, I never was so much as once that year at Tixall, my lord Aston's house. It is true, I was at the congregation of the Jesuits, held on the 24th of April was twelve month; but in that meeting, as I hope to be saved, we meddled not with state affairs, but only treated about the concerns of our province, which is usually done by us, without offence to temporal princes, every third year, all the world over.

Sheriff How. You do only justify yourselves here. We will not believe a word that you say. Spend your time in prayer, and we will not think your time too long.

Turner. I am, good people, as free from the treason I am accused of, as the child that is unborn; and being innocent, I never accused myself in confession of any thing that I am charged with. Certainly, if I had been conscious to myself of any guilt in this kind, I should not so frankly and freely, as I did, of my own accord, have presented myself before the king's most honourable privy council. As for those catholics which I have conversed with since the noise of the plot, I protest before God, in the words of a dying man, that I never heard any one of them, either priest or lay-man, express to me the least knowledge of any plot, that was then on foot amongst the catholics, against the king's most excellent majesty, for the advancing the catholic religion. I die a Roman Catholic, and humbly beg the prayers of such, for my happy passage into a better life. I have been of that religion above thirty years,

and now give God Almighty infinite thanks for calling me by his holy grace to the knowledge of this truth, notwithstanding the prejudice of my former education. God of his infinite goodness bless the king, and all the royal family, and grant his majesty a prosperous reign here, and a crown of glory hereafter. God in his mercy forgive all those who have falsely accused me, and have had any hand in my death: I forgive them from the bottom of my heart, as I hope myself for forgiveness at the hands of God.

"O God who hast created me to a supernatural end, to serve thee in this life by grace, and enjoy thee in the next by glory, be pleased to grant by the merits of thy bitter death and passion, that after this wretched life shall be ended I may not fail of a full enjoyment of thee my last end and sovereign good. I humbly beg pardon for all the sins which I have committed against thy divine majesty, since the first instance I came to to the use of reason to this very time; I am heartily sorry from the very bottom of my heart for having offended thee so good, so powerful, so wise, and so just a God, and purpose by the help of thy grace, never more to offend thee, my good God, whom I love above all things.

"O sweet Jesus, who hath suffered a most painful and ignominious death upon the cross for our salvation, apply, I beseech thee, unto me the merits of thy sacred passion, and sanctify unto me these sufferings of mine, which I humbly accept of for thy sake in union of the sufferings of thy sacred majesty, and in punishment and satisfaction of my sins.

"O my dear Saviour and Redeemer, I return thee immortal thanks for all thou hast pleased to do for me in the whole course of my life, and now in the hour of my death, with a firm belief of all things thou hast revealed, and a steadfast hope of obtaining everlasting bliss. I cheerfully cast myself into the arms of thy mercy, whose arms were stretched on the cross for my redemption. Sweet Jesus receive my Spirit."

The Last Speech of JOHN GAVAN.

Dearly beloved countrymen; I come now to the last scene of mortality, to the hour of my death, an hour which is the horizon between time and eternity, an hour which must either make me a star to shine for ever in the empire above, or a firebrand to burn everlastingly amongst the damned souls in hell below; an hour in which, if I deal sincerely, and with a hearty sorrow acknowledge my crimes, I may hope for mercy; but if I falsely deny them, I must expect nothing but eternal damnation; and therefore, what I shall say in this great hour I hope you will believe. And now in this hour, I do solemnly swear, protest and vow, by all that is sacred in heaven and on earth, and as I hope to see the face of God in glory, that I am as innocent as the child unborn of those treasonable crimes which Mr. Oates and Mr. Dugdale have sworn against me in my trial,

and for which sentence of death was pronounced against me the day after my trial. And that you may be assured that what I say is true I do in the like manner protest, vow, and swear, as I hope to see the face of God in glory, that I do not, in what I say unto you, make use of any equivocation, or mental reservation, or material prolocution, or any such like way to palliate truth. Neither do I make use of any dispensations from the pope, or any body else: or of any oath of secrecy, or any absolution in confession, or out of confession, to deny the truth: but I speak in the plain sense which the words bear; and if I do speak in any other sense, to palliate or hide the truth, I wish with all my soul that God may exclude me from his heavenly glory and condemn me to the lowest place of hell-fire: And so much to that point.—And now dear country-men, in the second place, I do confess and own to the whole world, that I am a Roman catholic, and a priest, and one of that sort of priests called Jesuits; and now because they are so falsely charged for holding king-killing doctrine, I think it my duty to protest to you with my last dying words, that neither I in particular nor the Jesuits in general, hold any such opinion, but utterly abhor and detest it: And I assure you, that amongst the vast numbers of authors, which among the Jesuits have printed philosophy, divinity, cases, or sermons, there is not one, to the best of my knowledge, that allows of king-killing doctrine, or holds this position, That it is lawful for a private person to kill a king, although an heretic, although a Pagan, although a tyrant. There is, I say, not one Jesuit that holds this, except Mariana the Spanish Jesuit, and he defends it not absolutely, but only problematically, for which his book was called in, and that opinion expunged and censured. And is it not a sad thing, that for the rashness of one single man, while the rest cry out against him, and hold the contrary, that a whole religious order should be sentenced? But I have not time to discuss this point at large, and therefore I refer you all to a royal author, I mean the wise and victorious king Henry the 4th of France, the royal grandfather of our present gracious king, in a public oration which he pronounced, in defence of the Jesuits, amongst other things, declaring that he was very well satisfied with the Jesuits doctrine concerning kings, as being conformable to the best doctors on the church. But why do I relate the testimony of one single prince, when the whole catholic world is the Jesuits advocate? Therein chiefly Germany, France, Italy, Spain, and Flanders, trust the education of their youth to them in a very great measure, they trust their own souls to be governed by them, in the administration of the sacraments. And can you imagine so many great kings and princes, and so many wise states should do, or permit this to be done in their kingdoms, if the Jesuits were men of such damnable principles as they are now taken for in England?—In the third place, dear country-men, I do protest, that as I never in my life did

inachine or contrive either the deposition or death of the king, so now at my death, I do heartily desire of God to grant him a quiet and happy reign upon earth, and an everlasting crown in heaven. For the judges also, and the jury, and all those that were any ways concerned either in my trial, accusation, or condemnation, I do humbly ask pardon of God, to grant them both temporal and eternal happiness. And as for Mr. Oates and Mr. Dugdale, I call God to witness, they by false oaths have brought me to this untimely end. I heartily forgive them, because God commands me so to do; and I beg of God for his infinite mercy to grant them true sorrow and repentance in this world, that they may be capable of eternal happiness in the next. And having discharged my duty towards my self, and my own innocence towards my order, and its doctrine to my neighbour, and the world, I have nothing else to do now, my great God, but to cast my self into the arms of your mercy. I believe you are one divine essence and three divine persons; I believe the Second Person of the Trinity became man to redeem me; And I believe you are an eternal rewarder of the good, and an eternal chastiser of the bad. In fine, I believe all you have revealed for your own infinite veracity; I hope in you above all things for your infinite fidelity; and I love you above all things for your infinite beauty and goodness; and I am heartily sorry that ever I offended so great a God, with my whole heart: I am contented to undergo an ignominious death for the love of you, my dear Jesu, seeing you have been pleased to undergo an ignominious death for the love of me.

*The Last Speech of JOHN FENWICK.**

Good people, I suppose you expect I should say something as to the crime I am condemned for, and either acknowledge my guilt, or assert my innocency. I do therefore declare be-

* It does indeed clearly seem, that the proceeding to try Whitebread and Fenwick for the same treason for which a former jury had been charged with them was illegal.

"Certainly now the jury is charged, they must give a verdict either of acquittal or conviction:" [Per Powell, Justice, in Rookwood's Case, A. D. 1696, *infra*.]

"Whitebread's Case was indeed held to be an extraordinary case:" [Per Powell, Justice, in the trial of Peter Cook, A. D. 1696, *infra*.]

"I know what has been usually thought of Whitebread's Case:" [Per sir Thomas Trevor, Attorney General, in Rookwood's Case.]

"By the ancient law, if the jury sworn had been once particularly charged with a prisoner, as before is shewed, it was commonly held they must give up their verdict, and they could not be discharged before their verdict given up, and so is my lord Coke, P. C. cap. 47, p. 110, and this is the reason given, 22 E. 3. Coron. 449, why after the plea of not guilty, and the inquest charged, the prisoner cannot become

fore God and the whole world, and call God to witness, that what I say is true, that I am innocent of what is laid to my charge of plotting the king's death, and endeavouring to subvert the government, and bring in a foreign power, as the child unborn: and that I know nothing

an approver, because the inquest shall not be discharged; but the book at large, viz. 21 E. 3. 18. a. mentions not the charging of the inquest, but the plea of not guilty, and the jury at the bar, Co. Lit. 227. b. But yet the contrary course hath for a long time obtained at Newgate, and nothing is more ordinary, than after the jury sworn and charged with a prisoner, and evidence given, yet if it appears to the court, that some of the evidence is kept back, or taken off, or that there may be a fuller discovery, and the offence notorious, as murder or burglary, and that the evidence, though not sufficient to convict the prisoner, yet gives the court a great and strong suspicion of his guilt, the court may discharge the jury of the prisoner, and remit him to the gaol for farther evidence, and accordingly it hath been practised in most circuits of England, for otherwise many notorious murders and burglaries may pass unpunished by the acquittal of a person probably guilty, where the full evidence is not searched out or given." Hale's P. C. vol. 2, c. 51, p. 294.

"And so," adds the editor, "it was practised in Whitebread's case in treason. See State Trials. See also Kel. 47, 52. But the reason given for this practice, if it were law, (which yet without the prisoner's consent is unwarranted by ancient usage; vide 3 Co. Inst. 110. Co. Lit. 227. b. 1. And 103. Raym. 34.) seems to hold as strongly in behalf of the prisoner as of the king; and yet I do not find any instance, where a jury once sworn was ever discharged, because the prisoner's evidence was not ready; on the contrary, in lord Russel's Case, [See this Case, A. D. 1683, *infra*.] the court refused to put off the trial only till the afternoon of the same day, pretending they could not do it without the consent of the attorney general, although in that case the jury were not sworn, and the prisoner urged, that he had witnesses, who could not be in town till night, in which case it was certainly in the discretion of the court to put it off or not. It hath, however, been since holden for law, that a jury once charged in a capital case cannot be discharged till they have given their verdict, and the case of Whitebread was thought a very extraordinary one." [See lord Delamere's Case, A. D. 1685, *infra*, and Rookwood's Case, A. D. 1696, *infra*, and Cook's Case, A. D. 1696, *infra*.] Fost. 16, 39, 76, 328."

Lord Hale farther says, "If after the jury sworn and departed from the bar, one of them, (viz. A.) wilfully goes out of town, whereby only eleven remain, these eleven cannot give any verdict without the twelfth, but the twelfth shall be fined for his contempt, and that jury may be discharged, and a new jury sworn, and

of it, but what I have learnt from Mr. Oates and his companions, and what comes originally from them.

Sheriff *How*. If you can make a good conclusion to your own life, it will do well; consider if your letters did not agree with the evidence, that's another matter.

Fenwick. I assure you, I do renounce all treason from my very heart. I have always, and ever shall disown the opinion of such devilish practices as these are of king-killing. If I speak not the whole frame of my heart, I wish God may exclude me from his glory.

Sher. *How*. Those that murdered sir Edmund-bury Godfrey said as you do.

new evidence given, and the verdict taken of the new jury; and thus it was done by good advice at the gaol delivery at Hertford, August 15, Car. 1, in the Case of Hanscom the departing juryman.

"And so it is usual at the gaol delivery at Newgate, if a jury be charged with several prisoners, and the court finds by probable circumstances that the jury is partial to one of the prisoners, the court may discharge the jury of that prisoner, and put him upon his trial by another jury; and this is used also in other circuits." *Sed qu. de hoc*.

"When the evidence on both sides is closed, and indeed when any evidence hath been given, the jury cannot be discharged, unless in cases of evident necessity, till they have given in their verdict; but they are to consider of it, and deliver it in with the same forms as upon civil causes; only they cannot, in a criminal case which touches life or member, give a privy verdict. See 1 Inst. 227: 3 Inst. 110: Fost. 27: 2 Hal. P. C. 300: 2 Hawk. P. C. c. 47, s. 1, 2. But the judges may adjourn while the jury are withdrawn to confer, and return to receive the verdict in open court.

"On the State Trials for High Treason, at the Sessions-house in the Old Bailey, London, under a special commission in 1794, against Thomas Hardy, Horne Tooke, and several others, charged with having formed the destructive project of a convention of the people to overthrow the monarchy and the constitution, the jury on each prisoner were kept together in the custody of the sheriff or his bailiffs night and day, for several days successively, during the whole of the proceedings on each trial, and till they gave their verdicts. The court adjourned from evening till morning; and also once in the day for the purpose of refreshment, and from Saturday evening till Monday morning, when Sunday intervened. The sheriff was charged to see that no improper communication was had with the jury during these intervals. And the first jury having been sent several nights to an hotel in Covent Garden, at some distance from the court, a slight suspicion arising that they were not kept quite free from extraneous information, the subsequent juries were accommodated with beds, in rooms

Fenwick. As for sir Edmundbury Godfrey, I protest before God, I know nothing of it: I never saw the man in my life.

Sher. *How*. For my part, I am of opinion you had a hand in it.

Fenwick. Now that I am a dying man, do you think I would go and damn my soul?

Sher. *How*. I wish you all the good I can, but I will assure you, I believe never a word you say.

Fenwick. I pray for his majesty every day, and wish him all happiness with all my heart. Also I do with all my soul pardon all my accusers. If the judge or jury did any thing amiss, I pardon them with all my soul, and all persons di-

nearly adjoining the court." [See, too, Stone's Case, A. D. 1795, *infra*.]

"A culprit was indicted for murder. The jury were sworn, and part of the evidence given, but before the trial was over, one of the jurymen was taken ill, went out of court, with the judge's leave, and presently after died. The judge, doubting whether he could swear another jury, discharged the eleven, and left the prisoner in gaol. The court was moved for a writ of Habeas Corpus, to bring up the prisoner that he might be discharged, having been once put upon his trial. This being a new case, the court said they would advise with the other judges upon it; and afterwards they all agreed that the prisoner might be tried at the next assizes, or the judge might have ordered a new jury to have been sworn immediately." Mich. 4, Geo. 3, Rex v. Gould, Burn's J. title Jurors, v. *ad fin*. Tomlins's Jacob's Law Dict. title Jury, iv.

A jury sworn and charged in case of life or member, cannot be discharged by the court or any other, but they ought to give a verdict: Co. lat. 227 b. See, too, Blackstone as quoted, *supra*, vol. 6, p. 1018, in a Note.

To speak it here once for all, if any person be indicted of treason, or of felony, or larceny, and plead not guilty, and thereupon a jury is returned, and sworn, their verdict must be heard, and they cannot be discharged, neither can the jurors in those cases give a privy verdict, but ought to give their verdict openly in court. Co. 3 Inst. 110.

It seems to have been anciently an uncontroverted rule, and hath been allowed even by those of the contrary opinion, to have been the general tradition of the law, that a jury sworn and charged in a capital case, cannot be discharged (without the prisoner's consent) till they have given a verdict. And notwithstanding some authorities to the contrary in the reign of king Charles the 2nd, this hath been holden for clear law both in the reign of king James the 2nd, and since the Revolution. Hawk. P. C. b. 2, c. 47, s. 1. And this was confirmed by lord Mansfield at the trial of lord George Gordon for high treason. But see this point argued at large, Foster 29, to 39, where it is said that in certain cases there may be an exception to this general rule.

rectly or indirectly. I am very willing and ready to suffer this death. I pray God pardon me my sins, and save my soul.—And as to what is said, and commonly believed, of Roman catholics, that they are not to be believed or trusted, because they can have dispensations for lying, perjury, killing kings, and other the most enormous crimes; I do utterly renounce all such pardons and dispensations, and withal declare, That it is a most wicked and malicious calumny cast upon catholics, who do all with all their hearts and souls, hate and detest all such wicked and damnable practices; and in the words of a dying man, and as I hope for mercy at the hands of God, before whom I must shortly appear and give an account of all my actions, I do again declare, that what I have said is true; and I hope christian charity will not let you think, that by the last act of my life, I would cast away my soul, by sealing up my last breath with a damnable lye.—Then they were at their private devotions for about an hour.

And Mr. Sheriff *How* spake to them; Pray aloud gentlemen, that we may join with you; we shall do you no hurt, if we do you no good. Are you ashamed of your prayers? Then he spake to Mr. Gavan; and said, It is reported you did preach at the Quakers meeting.

Gavan. To which he made answer, No, sir, I never preached there in my life.

After they had ended their devotions, the executioner pulled their caps over their faces, and went down and drew away the cart, and they were all hanged together until they were dead, and then cut down and quartered, and their bodies disposed of according to his majesty's command.

July 14 was appointed for the execution of Richard Langhorn. When he came down from his chamber to be put in the sledge, he had a written speech with him, but the Sheriff (telling him that he must use no papers at the gallows) took it away, so that he repeated there only so much of it as he could remember. When the hangman was putting the rope round his neck he took it and kissed it; and afterwards he said, I do not know, whether you will allow me liberty of speech or no; besides the noise of the people is so great, that I believe it is impossible to be heard.—I would gladly speak to Mr. Sheriff *How*, [who coming to him, he spake to him thus,] Mr. Sheriff, I having some doubt whether I should be suffered to speak in relation to my innocence and loyalty, I did for that reason prepare what I had to say in writing, and it is delivered into your hands, and therefore for the particular and precise words and expressions I do refer myself to that, and hope you will be so just to my memory that you will permit it to be seen.—I shall therefore make only a short preface, and I do declare in the presence of the eternal God, and as I hope to be saved by the merits and death of my dear Jesus, that I am not Guilty directly nor indirectly of any crime that was sworn against me: I do not speak this to arraign the court of justice, either judges or jury, but those men who did swear it;

and the jury were at liberty to believe or not believe, as they pleased; and I do likewise say with the same averment, that I did never in my life see any commission, or patent, or any writing, or any other thing under the hand of Johannes Paulus di Oliva.

Sheriff. Nor under no other hand?

Langhorn. No, nor under any other hand, of any commission or patent for the raising of an army, or any thing else against the king.

Sheriff. What was the patent for? nothing?

Langhorn. I never saw any, nor do I believe there was any: and whereas I have read in a Narrative that I sent a commission by my son, to the Lord Arundel of Warder, and that I delivered another to the Lord Petre (or Peters) with my own hands, I take God to witness, that I never saw him in my life, or ever to my knowledge saw the face of that lord; nor did I send or know of any thing, that was sent to my lord Arundel of Warder of that nature.

Sheriff. Shorten your business, Mr. Langhorn, you and your party have so many ways to equivocate, and after absolution you may say any thing.

Langhorn. I refer myself to that paper I gave you, Mr. Sheriff.

Sheriff. I think it is not fit to be printed, but I will do you no wrong.

Langhorn. I do not think you will.

Sheriff. You have already printed a paper, or somebody for you.

Langhorn. Sir, I did not print it, it was done without any direction or permission of mine.

Then he spake so much of the speech as he could remember; the whole was as follows.

In regard I could not foresee whether I should be permitted to speak at my death, so as to make a public declaration of my innocence and loyalty, as a christian ought to do; considering likewise, that if it should be permitted unto me, it would be more advisable for me rather to prepare beforehand, and set down in writing the very words in which I should make my declaration, than to trust my memory with them; to the end that the same may be well considered of, and digested by me, and that all mistakes might be prevented, as far as may be: I say, in regard of this, I have in the present paper reduced what I have to declare, as to my innocence and loyalty. And it is in these following words:

I do solemnly and sincerely, in the presence of Almighty God, profess, testify and declare, as followeth; that is to say,

1. That I do, with my heart and soul, believe and own my most gracious sovereign lord, the king's majesty, king Charles the second, to be my true and lawful sovereign, prince, and king, in the same sense and latitude, to all intents and purposes, as in the oath commonly called The Oath of Allegiance, his majesty is expressed to be king of this realm of England.

2. That I do in my soul believe, that neither the pope, nor any prince, potentate, or foreign authority, nor the people of England, nor any authority out of this kingdom, or within the same,

hath or have any right to dispossess his said majesty of the crown or government of England, or to depose him therefrom, for any cause or pretended cause whatsoever, or to give licence to me, or to any other of his said majesty's subjects whatsoever, to bear arms against his said majesty, or to take away his life, or to do him any bodily harm, or to disturb the government of this kingdom, as the same is now established by law, or to alter, or go about to alter the said government, or the religion now established in England by any way of force.

3. That I neither am, nor ever was at any time or times, guilty, so much as in my most secret thoughts, of any treason, or misprision of treason whatsoever.

4. That I did not in the month of November or at any other time or times whatsoever, say unto Mr. Oates, or unto any other person or persons whatsoever, in relation to my sons in Spain, or either of them, or in relation to any other person or persons whatsoever, that if they did continue in the world, (as secular priests, or otherwise) they should suddenly have great promotions in England, for that things would not last long in the posture wherein they then were; nor did I ever say any words to that or the like effect to any person or persons whatsoever.

5. That I did never in all my life-time write any letter or other thing whatsoever, unto, or receive any letter or other thing, from Father La Chaise, or any French Jesuit whatsoever; or from Father Anderton, or cardinal Barbarino, or any other cardinal; nor did I ever see any letter, or the copy of any letter or other paper, or other thing, written or purporting to be written unto the said La Chaise, or unto the said Father Anderton, or to the said cardinal Barbarino, by any person or persons whatsoever, other than the printed letters printed in the Narrative of the Trial of Mr. Edward Coleman, lately executed, which I never saw otherwise than in the said printed Narrative; nor did I ever hear any mention made by any person whatsoever of the name of La Chaise, or Father La Chaise, before I read the said printed Narrative.

6. That I did never in all my life-time make any entry or entries, into any book or books, or take, or make, or write, or cause to be written into any book or books, or otherwise, any letter or letters, or any copy or copies of any letter or letters, written by the said Edward Coleman, to any person or persons whatsoever.

7. That I did never in all my life-time enter or register into any book or books, paper or papers whatsoever, or take, or make, or write, or cause to be written any copy or copies of any act or acts, consult or consults, determination or determinations, order or orders, resolve or resolves, or other matter or thing, at any time made, determined, resolved, passed, decreed or agitated at any congregation or congregations, consult or consults, chapter or chapters, assembly or assemblies, of the society or order of the Jesuits, or of any other religious order whatsoever; nor did I ever see, read, or heard read,

nor did any person or persons at any time whatsoever, ever communicate unto me any such act, consult, determination, order, resolve, matter or thing whatsoever.

8. That I did never in all my life-time, to my knowledge, belief, or remembrance, see or speak with Mr. Bedlow, who gave evidence against me at my trial, until I saw him in that Court wherein he gave evidence against me.

9. That after the month of November, which was in the year of our Lord 1677, I did never see or speak with Mr. Titus Oates before-named, until I saw him in the same Court where he gave evidence against me at my trial.

10. That I did never see, in all my life-time, to my knowledge, belief, or remembrance, any commission or commissions, patent or patents, grant or grants, order or orders, instrument or instruments, writing or writings, or other matter or thing whatsoever, under, or pretended to be under the hand and seal, or the hand or the seal of Johannes Paulus de Oliva, or any other general of the Jesuits whatsoever, other than the paper or instrument produced and shewed unto me in the said Court at my trial, which whether it was signed or sealed by the said de Oliva, I do not know.

11. That I did never in all my life-time write, or cause or procure to be written, any treasonable letter or letters whatsoever, or any thing which was or is treason or treasonable, in any letter or letters, book or books, paper or papers, or otherwise howsoever.

12. That I believe, that if I did know, or should know of any treason or treasonable design, that was or is intended, or should be intended against his said majesty, or the government of this his majesty's kingdom, or for the alteration by force, advice, or otherwise, of the said government, or of the religion now established in this kingdom, and should conceal and not discover the same unto his said majesty, or his said majesty's council or ministers, or some of them; that such concealment would be in me a sin unto death, and eternal damnation.

13. That I do believe, that it is no ways lawful for me to lye, or speak any thing which I know to be untrue; or to commit any sin, or do any evil, that good may come of it. And that it is not the power of any priest, or of the pope, or of God himself, to give me a licence to lye, or to speak any thing which I know to be untrue; because every such lye would be a sin against truth: And Almighty God, who is perfect truth, cannot give me a licence to commit a sin against his own essence.

And I do solemnly, in the presence of God, profess, testify, and declare, That as I hope for Salvation, and expect any benefit by the blood and passion of my dearest Saviour Jesus Christ, I do make this declaration and protestation, and every part thereof, in the plain and ordinary sense of the words, wherein the same stands written, as they are commonly understood by English protestants, and the courts of justice of England, without any evasion or equivocation, or delusion, or mental reserva-

tion whatsoever: And without any dispensation, or pardon, or absolution already granted to me, for this or any other purpose, by the pope, or any other power, authority, or person whatsoever; or, without any hope, expectation or desire of any such dispensation; and without thinking or believing that I am or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the pope, or any other person or persons, or power or authority whatsoever should dispense with, or take upon him or them to dispense with, or annul the same, or declare that it was, or is, or ought to be null or void in part, or in the whole, from the beginning, or otherwise howsoever.

Having made this declaration and protestation in the most plain terms that I can possibly imagine, to express my sincere loyalty and innocency, and the clear intention of my soul, I leave it to the judgments of all good and charitable persons whether they will believe what is here in this manner affirmed and sworn by me in my present circumstances, or what is sworn by my accusers.

I do now farther declare, That I die a member (though an unworthy one) of that holy Catholic and Apostolic Church of Christ, mentioned in the three holy and public creeds, of which Church our Lord Jesus Christ is the invisible-head of influence, to illuminate, guide, protect, and govern it by his holy spirit and grace; and of which Church the bishop of Rome, as the successor of St. Peter, the prince of the Apostles, is the visible head of Government and Unity.

I take it to be clear, that my religion is the sole cause which moved my accusers to charge me with the crime, for which, upon their evidence, I am adjudged to die; and that my being of that religion, which I here profess, was the only ground which could give them any hope to be believed, or which could move my jury to believe the evidence of such men.

I have had not only a pardon, but also great advantages, as to preferments, and estates, offered unto me, since the judgment was against me, in case I would have forsaken my religion, and owned myself guilty of the crime charged against me, and charged the same crimes upon others: but blessed be my God, who by his grace hath preserved me from yielding to those temptations, and strengthened me rather to choose this death, than to stain my soul with sin, and to charge others, against truth, with crimes, of which I do not know that any person is guilty.

Having said what concerns me to say as to myself, I now humbly beseech God to bless the king's majesty with all temporal and eternal blessings, and to preserve him and his government from all treasons and traitors whatsoever; and that his majesty may never fall into such hands as his royal father of glorious memory fell into.

I also humbly beseech thee, O God, to give true repentance and pardon to all my enemies, and most particularly to the said Mr. Oates

and Mr. Bedlow, and to all who have been any ways necessary to the taking away of my life, and the shedding of my innocent blood, or to the preventing the king's mercy from being extended unto me; and likewise to all those who rejoiced at the judgment given against me, or at the execution of the said judgment; and to all those who are or shall be so unchristianly uncharitable, as to disbelieve, and to refuse to give credit unto my now protestations.

And I beseech thee, O my God, to bless this whole nation, and not to lay the guilt of my blood unto the charge of this nation, or of any other particular person or persons of this nation. Unite all, O my God, unto thee and thy church, by true faith, hope, and charity, for thy mercy's sake.

And for all those who have shewed charity to me, I humbly beg, O my Jesus, that thou wilt reward them with all blessings, both temporal and eternal.

July 18, 1679.

R. LANGHORN.

The Lord preserve his majesty from all manner of treason, and preserve him from falling into such hands, as his royal father, of glorious memory, fell under; I pray God to forgive my enemies, as I freely do those that accused me, those that witnessed against me; and all others that either desired my blood, or rejoice at the shedding of it; and all persons that have any ways concerned themselves with me, I freely forgive them with all my soul, and beg my dear Jesus to forgive them, and all others. God Almighty bless you, and bless the whole nation, and the government, and preserve it from all evil and mischief that I am afraid is coming on it, for the shedding of innocent blood. Sweet Jesus, lay not my innocent blood to their charge. I shall say no more now publicly.

After which he asked the executioner, Whether the rope was right or no? He said, Yes; and he asked him, whether he did forgive him? To which Mr. Langhorn said, I freely do. I shall now recommend myself to God in private.

Sheriff. You may have liberty.

Writer. The Lord have mercy on your soul.

Lang. The Lord in Heaven reward your charity.

Croft himself, prayed again.

Blessed Jesus, into thy hands I recommend my soul and spirit, now at this instant take me into paradise; I am desirous to be with my Jesus; I am ready, and you need stay no longer for me.

Besides the above Speech, the following Articles were printed in the year in which Langhorn suffered, with this title:

MR. LANGHORN'S MEMOIRS,

With some MEDITATIONS and DEVOTIONS of his, during his Imprisonment; as also his PETITION to his Majesty, and his SPEECH at his Execution. All which were left by him, and written with his own Hand.

BEING adjudged to die by a public judg-

ment, for the crime of High Treason, charged and sworn against me at my trial by two witnesses, namely Mr. Oates and Mr. Bedlow; and having both before my trial, and after the judgment given, declared my innocency to all with whom I have had the liberty to converse since my first imprisonment, I take it to be my duty to leave a testimony under my hand, for the farther justification of my innocency, and of the truth, against all those calumnies which have been; and may be laboured by ill men to be cast upon me; and the rather, because I do not know whether it will be allowed me to speak with freedom at my death; or if that should be permitted, yet I well know that what I may then say, may be misrepresented to the prejudice of truth.

I am not in the mean time ignorant, what prejudice I lie under, and how difficult it is for me to express myself in such words, as may gain belief with the world. But my design being only to satisfy good men, who accustom themselves to judge according to the rules of right reason; and as they would have others judge of them, I shall not much care for the censure of the multitude.

The crime which I am charged, is the most heinous of all crimes; but whether I am in truth guilty, can only lie within the knowledge of the great God, who is the searcher of all hearts, my own conscience, and the consciences of my before-named accusers. My God, I am sure, knows my innocency, and will acquit me at the great day of judgment. My conscience with great joy and peace bears me witness, that I am so perfectly innocent of the treason for which I stand condemned, that it invokes Almighty God to witness, that I was never in the whole course of my life guilty of so much as one disloyal thought against my sovereign lord king Charles the Second, whom I here own in the presence of God, to be my true and lawful king and sovereign, taking the words in the same sense in which they are taken and intended, in the oath commonly called, 'The Oath of Allegiance.'

As to all other persons who have judged, or shall take upon them to judge of me, whether I am guilty or not guilty of that crime, of which I here profess myself to be innocent, I am sure that according to reason they must disclaim to make any judgment upon science or strict knowledge; and must own, if that they can make no other judgment, than what must be grounded upon their belief, which can never have, or pretend to have any greater or higher certainty, than the motives of the credibility upon which it is built and grounded.

I do not, nor would I be taken to arraign the justice of the king, of the government, of the judges, before whom I was tried; or of the jury who gave the verdict, upon which judgment was given against me, whilst I pretend to examine the motives of credibility upon which a judgment of belief in this case is to be grounded. In the mean time I hope that neither his majesty, nor my lords the judges, nor

my jury will take it ill, if I presume to say, that neither the judges, nor the juries of England do, or ever did claim to be guided in their proceedings in cases of this nature, by any spirit of infallibility. The lord Coke, in his Pleas of the Crown, reports a sad, but very true case of a person condemned and executed for the murder of a girl, who, after the execution of the party so condemned, was found to be living, and in perfect health. And I think it is well known to most men of our times, that even since his now majesty's happy restoration to his crown and dignities, there happened a more sad accident, where three persons, viz. the mother and two sons were condemned, executed, and hanged in chains, for the murder of a person, who was afterwards found to be living, and never to have been any ways assaulted, or hurt by those who were executed for his murder. Here then there were innocent persons condemned and executed by public verdicts and judgments; and what hath happened, may again happen; and yet the juries, the judges, the justice, the king and government no way blemished, they proceed, and must always be taken to proceed according to the rules of law and justice. But there was certainly great faults somewhere in those two notorious cases before-mentioned; as there is likewise in my case, supposing it to be true what I here affirm in the presence of God, to be true in relation to my innocency, notwithstanding the judgment given against me.

Having therefore disclaimed, as I here again do, all intentions of arraigning the justice of my king, my judges, or my jury, I will recommend to be considered the motives of which a right judgment grounded upon belief, is to be made by men not biassed by passion or prejudice, touching my being guilty or innocent of that horrid crime, of which by judgment of law I stand condemned; which motives of credibility can only be truly and clearly known and represented, by a just, true, and sincere stating of my case, with all its circumstances, with as much brevity as it is capable of, which I here give as followeth:

The first news which I had, and the first mention which I ever heard of this plot and treason against his majesty, for which so many have been lately executed, and for which I stand condemned, was on the 29th of September last, when I heard several priests were taken, and in custody, being charged by one Mr. Oates for high treason. On Monday come seven-night after, being the 7th of October, I was myself seized on in my chamber in the Temple, by a messenger of the council, by virtue of a warrant under the hands of four privy counsellors, issued out against John Langhorn, esq. my name being Richard, I told the messenger that he could not seize me by virtue of that warrant. To which he answered, that he believed me the person intended, and would run the hazard; whereupon I submitted, and went with him to Newgate. And though upon my coming thither, I told the chief gaoler cap-

tain Richardson, that he could not justify the detaining of my person by virtue of that warrant; he not only told me, that he would run the hazard of it, but immediately made me a close prisoner, and continued me so with the utmost strictness, for about eight months. From hence it must in all reason be agreed, that there being a full week passed from the time wherein I heard of persons being committed for the plot, to the time of my being seized, I must be a perfect mad-man to appear publicly, and not to fly or conceal myself, if I were conscious of any the least imaginable guilt. And the same conclusion must necessarily follow upon my so quiet submitting myself upon a warrant made against one of another name, to one who had no title by his warrant to make me a prisoner. And it may reasonably also be conceived, that Mr. Oates, upon whose sole information (as I have since heard) that warrant was issued, was not so well acquainted with me as at my trial he swore himself to be, since he knew not my right christian name, of which scarce any persons were ignorant, who ever had any manner of conversation or business with me.

After Michaelmas term, having continued under the before mentioned close imprisonment for two months, without ever having been so much as examined or told what I was committed for; I considered that too long a silence on my part, might possibly be rather taken for a sullenness, than patience. And that there being a sessions then very near, it imported me to prevent, as far as I could, that I should not be surprized by a trial; and hurried from my close imprisonment to a bar, without being permitted to speak with any of my friends, or to prepare for my trial. Hereupon I addressed myself to the said captain Richardson to procure leave to address a petition to his majesty, and having leave, I did about the 10th day of December, deliver a petition to my said keeper, to be humbly presented by him to his majesty, there being no possibility for me to put the same into any other hand to be delivered. Whether this petition did ever come to his majesty, or not, I could not know with certainty, but I believe it did; the substance of it was to represent the miseries of my close imprisonment together, with my innocency, and total ignorance of all particular matters with which I could be charged; and to pray, that I might be admitted to an examination; and confronted with my accusers, as I conceive the law required, to the end I might justify myself before his majesty, and be discharged if there should appear no just cause for my being longer detained; or otherwise, that by knowing what was charged against me, I might be enabled to make my just defence at my trial; and might for that purpose have the liberty of the gaol, and of speaking freely with my friends, and of sending for such witnesses as I should have occasion to use for my just defence; and might not be surprized and hurried to a trial, without any

possibility of being able to make any defence.

To this petition I could never obtain any answer; but about the 16th day of December, I was sent for down out of my chamber, into captain Richardson's house, where I found three noble lords of parliament, who professed to come to me in charity, as I believe they did. These noble lords, when I was brought into their presence, were pleased to tell me, that I stood charged with High-Treason (but of what in particular, they did not say) and that there was great and evident proof against me, which would most certainly take away my life. And that they had heard so good a character of me in the world, that they were moved in charity and compassion to come to me, to advise me to make a free and full confession of the plot and treason against his majesty and the government, with which I stood charged, and thereby save my life. And they were pleased to offer me to become my mediators for a pardon for the saving of my life, and of my estate in case I would make such confession. I was much amazed to hear of such a charge against me, when my conscience cleared me from all guilt of that nature, so much as in thought. I therefore asked their lordships whether from the character they had received of me in the world, they did believe me to be an honest man? To which it was answered by one of their lordships, that their answer to that question of mine was to be distinguishing, viz. That I had so good and unblemished a reputation in the world, that if I were to give evidence in any concern of 10 or 20,000*l.* he should value my evidence as highly as any man's evidence whatsoever; but that in this present case if I should swear my innocency or that I knew nothing of the plot or treason with which I was charged, his lordship would not believe one word that I should swear. This answer made me see, that it would be in vain for me to make any asseverations to their lordships of my innocence and ignorance of any plot designed against his majesty; wherefore omitting that, I humbly represented my condition to their lordships, as to my close imprisonment, and my never having been examined, so as to make me capable of making a just defence, by a foreknowledge of what was charged against me. And I told them, that although it was supposed by the law, that in criminal cases the affirmative was to be proved by the king's witnesses, and that a negative could not be proved; yet it was known by all, that there might in many cases such affirmatives be proved by the prisoner as to many circumstances, as might clearly prove the affirmative, sworn by the king's witnesses to be impossible to be true. And that for this reason, if I should be surprized by a sudden trial, without knowing what was charged against me, and the circumstances of the charge, and without having the liberty of the gaol, and of my friends coming freely to me, in order to my preparing for my trial, and for my just defence, it would be the same thing as to murder me. To all which

one of the said lords replied (it was the earl of Shaftsbury) that he took this way of close imprisonment to be illegal, and that to be so surprized by a trial, would be the same thing as to cut my throat; and his lordship did thereupon tell me, that care should be taken, that I should have a just liberty and freedom in the gaol for my friends to come to me, and should not be surprized by a trial, as I feared to be.

This promise of this noble lord gave me great comfort; but notwithstanding this, my close imprisonment continued. My opinion was, that I was forgotten; and therefore I did several times send to captain Richardson, to put their lordships in mind of it; and when that was without effect, I apprehended that captain Richardson neglected me. But I find since, that those lords must have been understood to have intended to move the House of Lords, in relation to the making good of that promise; and that by the dissolving of that parliament, (which happened shortly after, though unknown then to me) there was no possibility for the making of such motion.

My close imprisonment continuing in January or February following, my poor wife procured leave from his majesty to see me; but not otherwise, than in the presence of my keeper. Upon her coming, I bemoaned myself to her, that I was totally ignorant of what was charged against me; and had still a continuance of my fear that I should be surprized with a trial, without being able to make any defence. My wife, much troubled to hear this, could not give me any answer to remove my apprehension, because captain Richardson was present; but against the time of her next coming to me, she procured an Abstract to be made of the several Narratives of Mr. Coleman's and Mr. Ireland's trials; and when she came next, she endeavoured to give it to me, to the end I might from thence know what was at those trials given in evidence relating to me. But captain Richardson discovering her intention, took the paper, and though he told me he would restore it to her, he carried it to the privy council, and would not permit my wife to see me any more.

Upon the delivery of the beforementioned paper to the council, (which was on the 1st day of March) a most worthy friend of mine had licence from his majesty to come to me, to exhort me to confess my knowledge of the plot, to represent unto me my danger, if I refused; and to give me hopes of a free pardon, in case I complied therein. In truth he represented my condition to me so dismally, that had not Almighty God been very merciful unto me, his discourses would have been of sufficient force to have deprived me of my understanding. In short, he both told me I was to expect no mercy, without a discovery made by me of the plot, and that there was two or three express witnesses against me who had been believed already by several juries; and that it was unreasonable in me to expect, that other juries should not believe what former juries had be-

lieved. He added, that the whole people were so possessed of a full belief of the plot, from the testimony of those witnesses, and of such strange an abhorrence against all of my religion, that whatever could be said against me would be believed by every jury; and whatever I should pretend to give in evidence for my defence, would be disbelieved and rejected, though an angel should come from heaven to confirm it. To all which I gave answer, that my trust and reliance was in my God, and only in him, that I had no doubt but my God, who knew my innocency, would stand by me and assist me, and find some way for the justification of my innocency, which to him I did aver and declare in the presence of God, and by invoking his divine majesty, to testify the truth of what I so averred and declared, with all the solemnity that I could use, and that can be used by a Christian in any case of like nature. I told him that there must be two several persons perjured, or I must be safe; and I could not think that two persons could conspire in perjury, for the destroying of so inconsiderable a person as I knew myself to be. And I added, that in case my God should so far withdraw his grace from me, by abandoning me to a reprobate sense, as to leave me to submit to the temptation of charging other persons falsely with any crime or plot, by which I should endanger the lives of others, for the saving of my own life, I was totally ignorant how to frame a plot that should seem credible; and could not in possibility frame any thing that could agree with what was at the present affirmed by my accusers, I being totally ignorant of what they had affirmed.

After this person had left me, I was in the beginning of March, and about one or two days before the meeting of the now parliament, again sent for down into captain Richardson's house, where I found two most honourable lords of his majesty's council, who gave me the same exhortation and invitation, in order to a discovery of the plot, as I had received before from my other friend; with this great addition, that their lordships shewed me an order of council to secure me of my pardon, in case I should make such discovery; but with this condition, that I must make it then, or else the assurance of pardon, promised by that order, to be void.

My conscience being clear and innocent, I made the same answers to these noble lords, as I had done to the former person who had sent to me; whereupon, before their departure, they delivered into my hands that paper which my wife had formerly prepared for me, it being (as I found) the opinion of his majesty, and of the council, that I should have it.

Upon all these circumstances duly considered, I hope it will appear to every charitable judgment, that if I had been in the least measure conscious to myself of any treason, I must (as I have said before) be esteemed to have totally lost my understanding, and to have become a perfect lunatic, in refusing to discover what (in case I had been guilty) I could not but see would be proved against me, especially when my dis-

covery was so fully secured, of producing me a pardon.

My close imprisonment continued until two or three days before Whitsunday, about which time it was allowed to some of my friends, to come to me with freedom, in order to my preparing for my trial, which was appointed to be at the end of Whitson week. By these friends, I had the printed Narrative brought to me of all the former trials relating to this plot, but I could have no light (otherwise than from them) of what would be charged against me in evidence.

I found it given in evidence by Mr. Oates at Mr. Coleman's trial, That he communicated the substance of a treasonable consult unto me, on the 25th of April 1678. The very next day (as he then swore) after the consult, and saw several commissions then in my chamber lying before me; and that after that time, he had never seen me. And I was glad to find that he had (as I conceive by what he then swore) lockt himself up by his oath to a time, and could not, without perjury, charge any thing against me as done after that time. And so far as I could make any judgment of what was deposed by Mr. Bedlow against me at Mr. Ireland's trial, touching my registering the consults of the Jesuits, I conceived it was only intended by him upon his hear-say. This was the whole (so far as I could gather from the printed Narrative) of what appeared to be charged. I did remember the name of Oates, having once by his hand received a letter; but I did not remember his person. And as for Mr. Bedlow, I did not remember ever at any time to have heard his name.

I found also from the said Narratives, That the Court had declared both those witnesses to be ill men. And as to Mr. Oates, I found that he had owned himself to have been first a Protestant, then a Roman Catholic; and now upon this charge laid by him upon me, and others, (of more value in the world by much, than my poor self) to profess himself again to be a Protestant. I also found, That upon comparing the several evidences which he had given against others, he had apparently contradicted himself, and affirmed several things which could not subsist to be all true, because they were contradictory one to the other. And as to Mr. Bedlow, I found by the Narrative of Mr. Reading's Trial, That he swore himself at that trial to be flatly perjured, when he gave evidence against Mr. Whitebread and Mr. Fenwick at Mr. Ireland's trial; for being then sworn to speak the truth, the whole truth, and nothing but the truth against the said Mr. Whitebread and Fenwick. And having then affirmed upon his said oath, That he was a stranger to them, and knew nothing to give in evidence against them, he did at the said trial of Mr. Reading, swear that it was impossible that he should be such a stranger to Mr. Whitebread and Mr. Fenwick, as he affirmed himself to be at their trials, when he was sworn to give evidence against them. I was also informed, (and there was a witness to prove the

same) That when at one of the former trials witnesses were tendered, to prove that Mr. Bedlow was a very ill man, and that for that reason no credit was to be given to him. He answered in the Court publicly, That they might save their labour to prove how ill he had been, for he readily owned the worst things that could be said of him; but that having the king's pardon, he was safe. And as to both Mr. Oates, and Mr. Bedlow, I was informed from good hands:

1. That they had owned themselves (with what truth I will not undertake to say) Guilty of the same Treason that they now charged upon me and others; and this was evident, from what they swore at every trial.

2. That they had received their pardons more than once each of them.

3. That they had received great rewards for the evidences by them given against others in the same case.

4. That they expected greater and farther rewards for the evidence to be given against me, and others.

All which, I conceived, would render their evidence unfit to be credited by any jury, if not wholly invalid in law.

Having gained these lights, after my long imprisonment, I did with very great longing expect my trial, and with great joy went to it when the day came, (which was Saturday in Whitsun-week, being the 14th of June now past) though in my passage from the gaol to the Court, I found myself condemned by the multitude before my trial, which (I thank my God) put me in remembrance of what my blessed Jesus suffered, from the like vote of the people.

I shall forbear to repeat the particulars of my trial, because I will give no occasion to think, That I have any intention to arraign the justice of my king, or of the government, or of my judges, or jury; only I shall crave leave to observe these following particulars, viz.

I. That the two first witnesses which were sworn for the king, deposed nothing against me; those were Mr. Dugdale, and Mr. Prance.

II. That Mr. Oates, who was the third witness sworn for the king, and the first whose evidence charged me, deposed, That he had two several communications with me since the month of April 1678, namely, in July and August 1678, whereas at the trial of Mr. Coleman, he had expressly sworn, That after the month of April 1678, he had never seen me to his knowledge or remembrance.

III. That Mr. Bedlow deposed, That as he and Mr. Coleman were together walking in my chamber in the Temple, he saw me entering several treasonable letters into a book in my study; and that the said book was a great book, lying upon the desk in my study: Whereas every person who knows my said chamber, and the situation of my study, cannot but know, that it is impossible to look out of my chamber into my study, so as to see any one writing there, and that I never had at any time any desk in my study.

What passed farther at my trial I forbear to mention, for the reason before given; but refer to such Narrative of my Trial, as I hear is published in print; which if it be truly made, I thank the reporter for his justice; if untruly, I then beg of God to pardon the reporter's injustice. In the mean time I do here, in the presence of the Great God, who is the God of truth, and the searcher of all hearts, declare and protest:

1. That as to Mr. Bedlow, I do not know, remember or believe, that I ever saw him, or heard him speak, before that time that he appeared in the said Court, to give evidence against me at my said trial.

2. That I did never see or speak with Mr. Oates at any time since the month of November 1677, so that I can with great truth affirm, and do affirm, in the presence of the all-knowing God, That whatever was given in evidence against me by the said Bedlow, was utterly false and untrue. As likewise whatever was given against me in evidence by the said Oates, as spoken by himself, or by me, in the months of April, July and August, 1678, or at any other times after the month of November 1677. As also what was sworn in evidence against me by the said Oates, at his first coming to me in the month of November 1677, which related to my prejudice; and which I could have proved to be false by a very good witness, in case I could have foreseen, that Mr. Oates would have had the confidence to have given any thing in evidence against me, as pretended to have been spoken by me at that time. But Mr. Oates, at the trial of Mr. Coleman, gave a clear evidence of his skill in this kind of fencing, and of his great care and cunning, to prevent that no person, whose life he designs to take away by his evidence, shall ever be able to know what he intends to swear, or consequently to produce any witness to discover or disprove his perjuries: For being then upon his oath, and being interrogated what he had informed against Mr. Coleman before his majesty and the council at Mr. Coleman's examination there, before he was committed to Newgate, Mr. Oates did not blush to swear, That he did only at that time inform what he judged sufficient, whereupon to ground Mr. Coleman's commitment; and concealed what he had farther to say, lest he should by saying it, enable Mr. Coleman to produce witnesses as to the circumstances of time and place, to disprove what Mr. Oates should say against him, or to the like effect.

Add to all this, that which Mr. Oates answered at my trial, when interrogated by me, (and to my best remembrance Bedlow gave the like answer to the same question) what gratification or reward he had received, for his pretended discovery of this by him pretended plot, and for giving evidence against such as had been tried thereupon; and particularly, whether he had not received the sum of 500*l*. and did not expect to receive a farther gratification for his farther services therein? He boldly an-

swered, That he was so far from having received any such sum, or any reward for his said services, that he was out of purse 750*l*. of his own monies, in the prosecution of the same. Which, how great an untruth that is, I refer to his majesty, and those who manage his majesty's monies and treasury; and to all who knew the most extreme poverty of these two persons, Oates and Bedlow, before they relieved their wants, and found the way to supply their necessities, by charging those persons with treason who have been executed, or remain still prisoners upon their accusations.

After the judgment was given against me, upon the verdict found upon the evidence of these two men, there were two persons came to me to the gaol, as sent by the earl of Shaftsbury, or his order, to propose something to me in charity, for the saving of my life. The first thing by them proposed to be done by me for that end, was a discovery to be made by me of the plot and treason for which I stood condemned. But when I had satisfied them so far, as to my solemn protestations made in the presence of God, were of force to satisfy them touching my innocency, and my total ignorance of any plot or treason ever at any time designed against his majesty, other than the late unparalleled treason and rebellion, which was before his majesty's happy restoration. They were pleased to propose farther, That it was well known, that I had been made use of as a counsel for the Jesuits, and in that capacity could not but know what estates they had in England, or at least a very great part of those estates; and that if I would freely make a discovery of such estates of that nature as should be of a considerable value, I should thereby obtain my pardon; the granting of which, upon such discovery, might be well justified to the parliament at their next meeting.

Having well weighed this latter proposal, and considered, that it would be a sin against truth to deny that I had a knowledge of such estates; and that all the scandal which could be taken by my discovery of them, could not be so great, as my denial would be offensive to God. And having no doubt, but that my frank and sincere discovering and owning what was within my knowledge, though to the displeasure of those who were to be concerned therein, would make it evident to all honest and judicious persons, that in case I knew any of the plot, or of any treason intended against his majesty, (the concealment of which by me would be a sin unto damnation) I would without difficulty discover the same, for the saving of my soul, as well as of my life, since I was ready to make a discovery of such estates, the concealment of which could be no sin against God or the king. I freely engaged myself to discover all that I knew touching such estates, for the service of his majesty; and the persons by whom the same was so proposed, went from me, with a resolution, to report my ready compliance therein unto his said lordship.

After this, I did by some friends prevail to have a report made to his majesty, of what had passed between those two persons and me, with which his majesty seemed (as I was informed) to be well satisfied, and directed, that I should send unto, and intrust his majesty with so much as I could remember (without having resort to writings) of those estates, which I with all readiness did: And I took that command from his majesty, to be an evident implied promise of a pardon, for the securing of my life. This engagement of mine, to make this discovery, occasioned a reprieve to be granted me for some days; but after the said reprieve granted, my lord of Shaftsbury was pleased to intimate unto me by one of the aforesaid persons, by whom it was first proposed unto me to make such discovery, that no pardon should be granted to me, without a full discovery made by me of the plot. And his lordship was also pleased to come to captain Richardson's house, and sending for me thither, to tell me to this effect, viz. That as my parts and reputation in the world had made me fit for employment, so I might rest secure, That in case I would make a full discovery of the plot, I should be put into as good a post, both as to honour and estate, as my own heart could wish; but if I failed to do that, no discovery of estates could or should procure my pardon. I laboured, what I could, by solemn protestations to satisfy his lordship of my innocency, and my total ignorance of any plot or treason whatsoever; and this I did so fully, (as I conceived) That in case Almighty God should have so far withdrawn his grace from me, as to leave me to a reprobate sense, and to permit against truth, to have pretended a knowledge of a plot, to the prejudice of any person, merely for the saving of my own poor life, and the obtaining those advantages with which I was tempted, I ought not in any measure to have been believed. But blessed be my God, who hath by his grace so far strengthened, as to enable me rather to choose and lose my life in innocency, and save my soul, than by falsities to lose my soul, and become guilty of the blood of others, against whom I could not with truth testify any thing of any crime.

After his said lordship had given me the temptation before-mentioned, I had several persons applied to me, with discourses tending wholly to make me despair of pardon, unless I would discover a plot; and to persuade me, that it was not honourable nor honest for me to discover any estates, which his majesty might seize on, in case I did not know, that the owners of the said estates were traitors. But I took all these discourses to signify no more than a repentance, for having proposed to me to make a discovery of estates: And therefore having sent such discovery unto his majesty, as I was able to make upon my memory; I laboured by my friends, and did obtain a farther reprieve, together with an order requiring to send into the council by a day limited, such disco-

very as I could make; and a license to have all my writings and papers in my chamber perused by such as I nominated, and according to such direction as I should give, for the better enabling me to perfect such discovery. This was conceived by me, and my friends, to be intended by his majesty, as an assurance of a pardon, it being to engage the whole council, as his majesty was pleased to engage himself before, when he commanded me to trust him; and it seemed evident, that this discovery required, must be a discovery of estates, otherwise the perusal of papers and writings had been to no purpose.

In obedience to the said last mentioned command, I applied with all diligence to compleat my discovery, my papers and writings were examined by my friends, and my discovery was perfected, and delivered in unto the council, at the precise day for that purpose limited, and it amounted to the value, as I computed the same, of between 20 and 30,000*l.* sterling, and was annexed to a petition, wherein I declared my innocency and ignorance of any treason or plot, and my sincere dealing as to my said discovery; and offered to submit myself to be examined upon interrogatories upon oath, or to undergo any trial of any test, for the giving satisfaction, that the discovery then by me made was compleat, and that I knew of no other lands belonging in any ways to the Jesuits, other than what I had then and there discovered; and likewise for the purging of myself touching any other matter, upon which it should be thought fit to examine me. And in my said discovery, I expressed every thing with such certainty as to the names of the estates, and the places where they lay, and the values, so far as I was able to give the same, and the persons (so far as I knew) concerned therein, that it was easy to seize the same immediately for the use of his majesty: So that I thereby did all that was in my power, in order to my giving a perfect obedience to the said commands of his majesty, and to what was thereby required from me. And my friends, as well as myself, had no doubt, but that as Almighty God requires no more from us, for the obtaining his pardon of our sins, and the salvation of our souls, than what his Divine Majesty knows to be possible for us to do on our parts; so the king's majesty, and his council, would require no more from me, for the saving of my poor life, and the obtaining of my pardon, than what was possible for me on my part to do. I, also looked upon the public honour and faith to be now firmly engaged for the security of my life, and the granting of a pardon to me, I having fully performed my part, of that which was the condition. And it being clear, that when once my discovery was delivered in, and read in council, it ceased to be a secret, and that nothing therein contained, could afterwards remain as a thing undiscovered. It was likewise evident that by this act I had done (as I believed) more than any other single person now living, who is merely a lay-

man, could do for the service of his majesty. And that if there were any such plot, as is affirmed by Oates and Bedlow, and that any person now charged therewith, had knowledge thereof, and should be required, as I had been, to discover what he knows for the saving of his life, he would hardly be induced to make such discovery, in case my life should be taken away, after my so free discovery of all that was within my knowledge to be discovered, was in obedience to so great a command delivered out of my hands. However I rested satisfied, that in case my life should be taken away for the crime for which I stand condemned, and after my obedience given to his majesty's commands, in making the said discovery, I should die with this great comfort, That I should have a double martyrdom. First, as dying perfectly innocent of the crime for which I should lose my life. And secondly, as choosing rather to die, than to sin against my God, and my neighbour, by charging others falsely, and becoming guilty of their blood, and of the ruin of their families, by accusing them of a crime, of which my own conscience must bear me witness, that I did never know them, or any of them Guilty; but on the contrary, believe them to be perfectly innocent. Whereas if I had on the other side denied myself to have known any thing of those estates, which I was required to discover, I must have sinned against the God of truth, by affirming a lye. And if confessing, that I had knowledge of such estates, I should rather have chosen to die, than to have made a discovery of such my knowledge for the saving of my life, I should have appeared, in some sort at least, guilty of my own blood, through my obstinacy.

Upon the delivering of this discovery, and the reading of it in the council, the lord viscount Halifax produced a letter written to him (as his lordship affirmed) from the earl of Roscommon from Brussels, in which letter the said Earl taking notice, that he had heard of my being reprieved, affirmed himself to be much satisfied, that my life should be saved; and gave this reason, that my life might be useful to the public, or to the like effect. These words were taken to my great disadvantage, and to import, as if the earl of Roscommon did know, that I was able to make a discovery of the plot. And though the words might well bear a more kind sense, and did not, without forcing, so much as incline to that unkind interpretation; yet upon the reading of that letter, my discovery was rejected, after having been publicly read, and ordered to be sent unto me by a clerk of the council, and notice to be given to me, that by an order of council, I was reprieved only until the 14th day of July; and that if before that day I did not make a discovery of the plot, I was to expect no farther mercy.

My friends were more astonished at this order than myself was, and being now in this condition, I presumed yet once more, to address a Petition, in which I prayed, that my

life might be saved, though to be spent in banishment; and to the end that I might do all that in me lay, to express and declare my innocency, I did, to that Petition, annex this following Declaration, and Protestation, viz.

I do solemnly and sincerely in the presence of Almighty God, profess, testify, and declare, as followeth: That is to say,

I. That I do believe, and own my most gracious sovereign lord the King's majesty, king Charles 2, to be my true and lawful sovereign king, in the same sense and latitude, to all intents and purposes, as in the oath commonly called, 'the oath of allegiance,' his said majesty is expressed to be king of this realm of England.

II. That I do in my soul believe, that neither the pope, nor any prince, potentate, or foreign authority, nor the people of England, nor any authority out of this kingdom, or within the same, hath or have any right to dispossess his said majesty of the crown and government of England, or to depose him therefrom, for any cause, or pretended cause whatsoever; or to give licence to me, or to any other of his majesty's subjects whatsoever, to bear arms against his majesty, or to take away his life, or to do him any bodily harm; or to disturb the government of this kingdom, as it is now established by law; or to alter, or go about to alter the said government, or the religion now established in England, by any way of force.

III. That I neither am, nor ever was at any time guilty, so much as in my most secret thoughts, of any treason, or misprision of treason whatsoever.

IV. That I do believe, that if I did know, or should know of any treason, or treasonable design that was, or is intended, or should be intended against his said majesty, or the government of this his majesty's kingdom, or for the alteration by force, advice or otherwise, of the said government, or of the religion now established in this kingdom, and should conceal, and not discover the same to his said majesty, or his majesty's council or ministers, or some of them, that such concealment would be to me a sin unto death, and eternal damnation.

And I do solemnly, in the presence of God, profess, testify and declare, that as I hope for salvation, or expect any benefit by the blood and passion of Jesus Christ, I do make this declaration and every part thereof, in the plain and ordinary sense of the words, wherein the same stands written, as they are commonly understood by English Protestants, and the courts of justice of England, without any evasion, or equivocation, or delusion, or mental reservation whatsoever. And without any dispensation, or pardon, or absolution already granted to me, for this or any other purpose, by the Pope or any other authority or person whatsoever, or without any hope of any such dispensation. And without thinking or believing that I am, or can be acquitted before God

or man, or absolved of this declaration, or any part thereof, although the Pope, or any other person or persons, or power whatsoever, should dispense with or annul the same, or declare that it was or is null or void from the beginning.

This, with my Petition, was presented to his majesty in council, on Thursday the 10th of July instant; and after the reading of my Petition, my said protestation and declaration was, as I am informed, begun to be read, but when the person that read the same, came to read that part of it in which I aver my innocency, he was not, as I am informed, permitted to read farther; and it was declared, That I was to expect no farther mercy, unless I would make a discovery of the plot, which, God is my witness, I cannot do, because I know nothing of it directly or indirectly.

And now having related all the particular circumstances of my case, so far as my memory can recollect them; and made such protestations and declarations as is before mentioned, I shall only recommend to be considered by all impartial judgments, those solemn and serious protestations which were made by those others, who have lost their lives already upon the evidence given against them by the same Mr. Oates and Mr. Bedlow, and pray that it may be duly weighed, Whether the solemn oaths and protestations of sober men, made by them immediately before their respective deaths, and this protestation of mine before mentioned, made at a time, when my confession and discovery of a plot or treason against my king (in case I had been privy unto, or known such plot or treason) would not only have saved my life, and secured me a pardon; but would also have entitled me unto, and, in all probability, put me into the full possession of preferments and advantages, greater than I ever, I thank my God, coveted: Be not more considerable to move a belief of my innocency, than the evidence given against me by my accusers before-mentioned, to move a belief of my guilt? It is said, it is not upon the bare oaths of those two witnesses, but upon the verdict of the twelve jurors, that I am found Guilty. I am sure that every judicious person, who understands our proceedings in our law of England, in all cases of this nature, doth know and can answer, that the verdict of the 12 jurors is grounded wholly upon the evidence given by the witnesses. The jurors belief of the witnesses produced and sworn to give evidence against me, was the foundation of their verdict, and justifies them in law; and the verdict given by the jurors, doth in law justify the judgment given by the judges, for the taking away of my belief. And I beseech God that the same rule of law, may, at the great and terrible day of judgment, acquit as well the jurors, who gave that verdict, as the judges who gave that judgment, from all guilt of my blood. But I must again refer it to the consciences of all unbiassed, judicious and good men, whether in Christian charity; the motives of credibility founded upon such judg-

ment, the verdict, which was solely grounded upon the evidence of Mr. Oates and Mr. Bedlow, be of greater force to a good and charitable conscience to pronounce me Guilty, than the several other motives which I have here represented, will be found to pronounce me innocent?

It will no way concern me as to my own particular, whether the world shall adjudge me innocent, or not; it is sufficient for me, that my conscience doth with great joy and peace acquit me. And that the God of all truth, my dearest Jesus, who is truth itself, doth know me to be innocent. And that the consciences of those most unhappy men, Mr. Oates and Mr. Bedlow, will at the last day, when the secrets of all hearts shall be made manifest, be compelled to the glory of God and their own shame, to proclaim me innocent. I beseech Almighty God to give those miserable men a true and sincere repentance for the sin which they have committed, and by which they have drawn upon themselves the guilt of my innocent blood.

I do here profess myself to die a member of the holy Catholic and Apostolic Church, of which, the bishop of Rome is the supreme visible head of government on earth, as the successor of the holy apostle St. Peter. And of which Church our blessed Lord Jesus is the supreme invisible head, of influence to guide, govern and direct the same by his Holy Spirit. And I do take my religion to be the sole cause of my being the object of the malice of my enemies, who are the causers of my death.

If what I here say be any ways disbelieved because of my religion, I humbly recommend it to the consideration of sober men, whether such disbelief upon this ground, be not,

1. To cast a reproach and blemish upon the honour and reputation of all our most pious ancestors, and our whole nation, who lived and died before the 20th year of king Henry 8, and who did all live and die in the same faith, and members of the same Church, of which by God's grace I am now a member, though unworthy.

2. To cast a like reproach upon all the princes, states and people of the world, who are members of the same Church.

3. To give a just occasion to the same princes, states and people, never to give credit to any thing affirmed or sworn by any English Protestant; and consequently,

4. To lay a foundation for the total destroying of all trade, as well as conversation, with all those princes, states and people.

We must learn to do unto others, as we would have others do unto us. And it is not a good answer to say, that this disbelief is only in relation to the Jesuits, and those who make use of them? For there is scarce any prince of this religion now living, who doth not make use of a Jesuit for his ghostly father; which will likewise be a clear evidence, that those princes (known to all the world not to be fools or madmen) have not an opinion, that the doctrines

and principles of the Jesuits, are any ways pernicious and dangerous to government, as the pulpits of England repute them to be. And certainly if an English Protestant should in France, cast the two execrable murders of those two kings of that kingdom, who were killed by Clement and Ravillac, upon the Jesuits, or as an effect of any doctrine of our church, that church and that order, would with much greater ease clear themselves from such a reproach, than our English Protestants could clear themselves, in case the murder of queen Mary of Scotland (our king's great grandmother) or of our last most excellent prince king Charles the 1st, should be cast as a reproach upon the doctrines of the Protestant church of England, or of any other party professing Protestantcy, these murders being committed under the solemn species and formalities of public justice; when it is well known, that Clement and Ravillac were only two private villains, who were disowned by all the world. Nor do there want authors who call themselves, and are reputed to be Protestants, who, in their public writings, justify these two murders of queen Mary and king Charles 1. Nay, there may, peradventure, be found more authors, reputed Protestants, who justify the people to have a power to depose and take away the lives of kings, than there are sound authors, reputed to be Catholics, who assert the Pope to have power to depose princes. Yet, God forbid, that I should call these positions or opinions, the doctrines of the church of England; I impute these actions to the passions of wicked and ambitious men; and these doctrines, to those only who write or own them; and certainly the same charity cannot, without sin, be denied to us by all sober judgments. But if this justice be denied unto me, and those of my religion, I beseech God to pardon such as are so uncharitable; and I do most heartily and from my soul, forgive those who want this charity, as I do the before-named Mr. Oates and Mr. Bedlow, and all others who are any ways guilty of my death, or of my not obtaining my pardon, or of rejoicing at the shedding of my innocent blood; and all who have done me any injury whatsoever, Sweet Jesus forgive them, they know not what they do.

July 12, 1679. RICHARD LANGHORN.

THE AFFECTIONS of my SOUL, after Judgment given against me in a Court of Justice, upon the Evidence of False Witnesses.

I.

It is told me I must die
 Ignominiously,
 By the hand of the executioner:
 O happy news!
 I see myself honoured with the livery of Jesus,
 I receive the judgment of death
 As an enemy to Cæsar,
 As designing the death of my king,
 And the depriving him of
 His crown,
 His government.

Whilst in the mean time
 My Jesus knows,
 My conscience rejoicing testifies,
 That I never yet harboured
 In my heart at any time,
 So much as one disloyal thought
 Against my king and sovereign.
 And the consciences
 Of my accusers must testify
 At the last and dreadful judgment,
 To the glory of my God,
 And the justification of truth,
 That I am perfectly innocent
 Of all and every the crimes,
 Of which they swore me guilty.

II.

It is told me I must die
 A death of dishonour in the
 Vain opinion of the world,
 O happy news!
 My Jesus calls me by this sentence,
 To bear his cross, and follow him.
 The judge declares my death necessary
 For the king, and for his people;
 The people shout and cry out,
 Crucify, crucify.
 He who was perfect innocency,
 Hath set before me his example,
 He opened not his mouth,
 He justified not himself,
 He forgave, and prayed for his enemies.
 O what happiness
 To be dignified with so many circumstances
 Of the death of Jesus!

III.

It is told me I must die,
 O sweet and happy news!
 Rejoice, O my soul,
 For thou hast no cause for fear,
 Thy Jesus hath died for thee;
 He hath paid a ransom for thee;
 He hath bought thee with his life;
 He hath satisfied for thy sins;
 He hath purchased Paradise for thee;
 He hath adopted thee his brother;
 He hath adopted thee the Son of his Father.
 He hath cleansed thee by his blood;
 He hath given thee his body for thy security;
 Upon his cross he declared thee son of his
 mother;
 And he now gives thee his cross to bear,
 As an evidence that thou art one of his.

IV.

It is told me I must die,
 O happy news!
 Be glad, O my soul,
 And rejoice in Jesus thy Saviour.
 If he intended thy perdition,
 Would he have laid down his life for thee?
 Would he have expected thee with so much
 patience,
 And given thee so long a time for penance?
 Would he have called thee with so much love,
 And illuminated thee with the lights of his
 spirit?

Would he have drawn thee with so great force,
And favoured thee with so many graces?
Would he have given thee so many good desires?
Would he have set the Seal of the Predestinate
upon thee,
And dressed thee in his own livery?
Would he have given thee his own cross,
And given thee shoulders to bear it with pa-
tience?

V.

It is told me I must die,
O happy news!
Come on, my dearest soul,
Behold thy Jesus calls thee,
He prayed for thee upon his cross,
There he extended his arms to receive thee;
There he bowed down his head to kiss thee;
There he cried out with a powerful voice,
Father receive him, he is mine;
There he opened his heart to give thee en-
trance;
There he gave up his life, to purchase life for
thee.

VI.

It is told me I must die,
O blessed news!
I must quit
Earth for Heaven,
My earthly prison for a liberty of joy;
My banishment for my country prepared
for me.
I must pass
From time, to eternity;
From misery, to felicity;
From change, to immutability;
From death, to immortality.
I must leave what I possess on earth,
To possess my God;
To enjoy my Jesus;
To converse with angels and saints.
I must go to fill
My spirit with a plenitude of light;
My will with a fulness of peace;
My memory with a collection of all good;
My senses with a satiety of pleasures.
I must go where I shall find
All things which I can desire,
Nothing that I can fear.
I shall no more want any good,
God shall be unto me all in all,
And my all to all eternity.

VII.

It is told me I must die,
O happy news!
I shall be freed from misery;
I shall no more suffer pain;
I shall no more be subject to sin;
I shall no more be in danger of being damned.
But from henceforth
I shall see, and I shall live;
I shall praise, and I shall bless;
And this I shall always do,
Without ever being weary
Of doing what I always am to do,

VIII.

It is told me I must die,
O what happiness!
I am going
To the place of my rest;
To the land of the living;
To the haven of security;
To the kingdom of peace;
To the palace of my God;
To the nuptials of the Lamb;
To sit at the table of my king;
To feed on the bread of angels;
To see what no eye hath seen;
To hear what no ear hath heard;
To enjoy what the heart of man cannot com-
prehend.

IX.

It is told me I must die,
O news of joy!
Let us go, my soul, I am content,
I joyfully renounce this life,
And render it back to him that gave it me;
I remit my spirit into his hands;
I recommend my soul and body to my Jesus;
I accept this death most willingly,
And offer it with the merits of Jesus,
As a satisfaction for my many sins.
I believe every thing that he hath revealed;
I hope for every thing that he hath promised;
I acknowledge and know my own nothingness;
I give him all that I can call my own;
I am willing to die
For his glory,
For his love,
Out of gratitude for his favours,
And to satisfy his justice.
I am willing to die for him, as he died for me.
I am willing to die,
To see my Jesus,
To love my Jesus,
To bless my Jesus,
And to sing his praises to all eternity.
Come on, my soul, let us go and rejoice,
He, who by his grace, hath enabled thee to
know
Thy own miseries,
And his mercies.
He who hath enabled thee
To detest thyself,
And to rely on him,
Commands thee to shake off all fear;
It is not for any thing in thee,
That he enables thee to these acts,
Or that he loves thee, and will save thee;
He doth it because he is God,
Perfect love, and perfect goodness.

X.

O Father of mercy,
Behold thy child, who hath been a prodigal;
Who, having wasted all his goods,
And spent his time in vanity,
Drawn by thy grace and love,
Is now returning to thy house,
And humbly begs for pardon at thy hands.
Alas!
I have lived as without reason,

Since first I had the use of reason ;
 I have done nothing of myself but evil,
 From the time that I first knew what good was,
 I have sinned against Heaven, and against thee,
 I deserve not the title of thy son,
 Or to have admittance into thy house.
 And though I am wholly innocent
 Of the crime for which I am sentenced now to
 die,
 Yet from thy hands I have deserved a death to
 All eternity.
 But thou hast made me know,
 That thou canst not cease to be a Father,
 For my having often ceased to comport myself
 As thy child.
 Thou canst not lose thy goodness,
 By my having often forgotten my gratitude;
 Thou canst not forget to be a Father of mercy.
 By my having become a child of misery.

XI.

O my Father,
 O thou the best of all Fathers,
 Have pity on the most wretched of all thy
 children;
 I was lost, but by thy mercy am now found?
 I was dead, but by thy grace am now raised
 again;
 I was gone astray after vanity,
 But am now ready to appear before thee.
 O my Father,
 Come now in mercy and receive thy child;
 Give him the kiss of peace;
 Remit unto him all his sins;
 Cloath him with thy nuptial robe;
 Receive him into thy house;
 Permit him to have a place at thy feast;
 And forgive all those who are guilty of his
 death.

XII.

O Jesu,
 The comforter of the afflicted;
 The refuge of the oppressed;
 The redeemer of the captives;
 The hope of the distressed;
 Behold I address unto thee,
 Who never drivest any from thee,
 Who approach unto thee with Faith, Hope and
 Love.
 My heart tells thee,
 That it burns with a desire to see thee,
 And that for that end it is impatient to die.
 Come sweet Jesu,
 Come quickly,
 Draw my soul from this prison;
 Recal me from this banishment;
 Conduct me to my dear country;
 Behold the just expect me;
 My friends reach out their arms towards me.
 O how beautiful are thy tabernacles!
 O how admirable is thy palace!
 O what content shall I have with thee!
 What happiness in thy company!
 I die with a desire to die.
 Come blessed Jesu,
 And receive my spirit,
 Which languisheth to be with thee;

Into thy hands, O Jesus,
 I recommend my spirit.

Acts of Resignation, Thanksgiving, Faith,
 Hope, and Love.

Blessed Jesus, who art the way, the truth,
 And the life, behold I do most willingly
 Take up and bear my cross, as thou hast
 Commanded me, and do give thee most humble
 Thanks, that thou art pleased to dignify
 My death with so many circumstances of
 Thy most sacred passion, as thou art pleased
 To bestow on it.

I firmly believe, O my Jesus, whatsoever
 Thou hast proposed unto me by thy holy Ca-
 tholic

And Apostolic church; because thou hast
 spoken it,

Blessed be thy name, that by thy grace I have
 Lived in this faith, and that thou hast pleased
 To think me worthy to die for it.

On thee, O my Jesus, I profess wholly and
 solely

To rely, and to hope in thee, and in thy blood
 With so much love shed for me, by which I
 Firmly confide, that thou wilt save me,
 Though most unworthy, I love thee, O my Jesus,
 For thyself, and beg that thou wilt increase
 That love in me; I am sorry, O my God, from
 my

Heart and soul, that I have at any time sinned
 Against thee, and this, as I hope by thy grace,
 for

The love of thee.

Several Acts of my Soul, upon the last Words
 of our blessed Jesus.

I do from my heart, O my Jesus, pardon all my
 Enemies, and particularly those upon whose
 false

And untrue testimonies, I am adjudged to die
 for

Crimes, of which thou, my Jesus knowest, and
 their

Consciences at the dreadful day of judgment
 Must testify that I am wholly innocent, Father
 Forgive them, they know not what they do.

Behold, O my Jesus, I am now coming unto
 thee,

Confirm it unto my soul by thy holy spirit, that
 This day I shall be with thee in Paradise.

O Lamb of God, who upon thy cross didst
 adopt me

In the person of St. John, to be the son of thy
 Blessed mother, and before whose throne thy
 holy

Saints now offer the incense of prayer for thy
 Servants upon earth, mercifully receive those
 Prayers which are addressed to thee, for me the
 most

Unworthy of thy creatures.

O blessed Jesus, who upon thy cross wert
 pleased

To suffer an abandonment, to the end I might
 Not be abandoned by thy Father at my death.

Blessed be thy name, that thou art pleased to
 be now 3

With me by thy holy spirit, and not to forsake
Me in this great time of trial.

O my dearest Jesus ! who upon thy cross didst
suffer

Thirst; for the perfecting the work of my re-
demption.

Behold I now thirst to be with thee, blessed be
Thy name that thou art pleased to give me this
thirst.

O my Jesus, who upon thy cross didst consum-
mate

Thy life for the love of me, blessed be thy
Name, that thou permittest me to consummate
My life for thee in thy service.

O my dearest Jesus, into thy hands I commend
my spirit.

The several Circumstances of the Passion of
our Lord accompanying my Death, by which
he vouchsafes to grace me, a poor Sinner, and
to refresh my memory, in relation to his blessed
Merits.

1. To be judged by a public sentence.
2. To die the most ignominious of all deaths.
3. By the hands of the public executioner.
4. As an enemy to Cæsar and the government.
5. To die hanging on a tree.
6. To be stript of all my clothes.
7. To have all my blood entirely shed, by em-
bowelling and quartering.
8. With a public declaring my death to be ne-
cessary for the people.
9. The multitude shouting, Crucify, Crucify.
10. The people rejoicing at this sentence and
death.
11. Occasioned by false witnesses.
12. The witnesses induced by malice and re-
wards.

To the King's most Excellent Majesty. The
Humble PETITION of RICHARD LANG-
HORN, a Prisoner condemned in the Gaol
of Newgate.

Humbly sheweth; That your majesty's peti-
tioner, with all gratitude of heart and soul
imaginable, humbly thanks your majesty for
your mercy, in giving him life until Monday
next.—That your petitioner is wholly ignorant
of the substance of that letter mentioned in
your majesty's order of council, of the 3d inst.

to have been written by the earl of Roscommon,
as also of the grounds upon which it was writ-
ten; and therefore hopes that your majesty
will not permit your petitioner's life to be taken
away, before that be clearly understood.—
That your petitioner having, in obedience to
your majesty's particular command, made a
full, clear and sincere discovery of all those
estates which your majesty commanded him to
discover, humbly offers unto your majesty's
merciful consideration, the protestation and
declaration by your petitioner hereunto an-
nexed; by which he no way intends to reflect
upon your majesty's justice, or the justice of
the judges or jury by whom he was tried: and
humbly begs, that the same may not be inter-
preted to intend any such reflection. And
that your majesty will please to consider, that
it is not impossible for an innocent person to
be condemned, since it is not many years past,
that three persons were executed, and hanged
in chains, being condemned for the murder of
one, who appeared afterwards to be living;
and this without any just cause of reflection
upon the justice of your majesty, or of their
judges or jury.—That your petitioner humbly
begs leave to hope, that when your majesty
shall have considered his said Declaration,
you will, out of the abundance of your natural
inclinations to mercy, either vouchsafe to give
him his pardon, so as to enable him to spend
the remainder of his life, in the service of your
majesty, and his country; or at least, give him
leave to live, though it be abroad, and in per-
petual banishment, he having fully obeyed
your majesty's commands, in discovering every
thing within his knowledge, which hath been
required to be by him discovered; and the
case of your petitioner being singular, as not
having above any one witness to any one par-
ticular matter of fact given in evidence against
him, as the judges can inform your majesty.

Your majesty's petitioner therefore humbly
casts himself at your majesty's feet, humbly
imploring your royal mercy; and that you will
be graciously pleased to give him his life, that
he may spend it wholly in praying for your ma-
jesty's long and happy life, reign and govern-
ment. And your petitioner, as in duty bound,
shall daily pray for your most sacred majesty,
&c.
R. LANGHORN.

*The following, among other Articles concerning these People, were
published at the Time :*

THE main drift and scope of these so noto-
rious malefactors speeches, was to wipe away
the contamination of that guilt, which brought
them all to be the public spectacles of condign
punishment; wherein they observe all the same
method of appealing to Heaven, denying the
doctrine and maxims of their order, and then
praying for the king and themselves. All which
oaths and protestations, had they been true,

they might rather have been thought Apostates
from their order, and detectors of the religion
they so zealously professed upon the ladder,
than valiant champions in the Romish militant
church. Had they been such weak and pusil-
lanimous combatants with death, as not stren-
uously to deny what they were so fairly con-
victed of; they would have been deprived of
those glorious crowns of martyrdom which were

assured them by him, whom they call the only Lord of all the world, the only vice God, the only emperor, the only king, the most holy Pope. They thought it was much better to make but one skip from the cart to Jacob's ladder, and so to mount directly up to Heaven, than to be condemned with an ignominious load of truth, and penitent confessions of the facts they committed, to the whips and scourges of a tedious purgatory; else it would seem strange to the world, that in the midst of those solemn protestations which they made to that God, to whom their souls were taking such a speedy flight; as they pretended, should so boldly deny what so many grand seigniors of jesuitism have so stiffly maintained to all the world. Nor did this leash and brace of their disciples, shew themselves such mild receders from their principles, who durst so confidently adventure to beard the laws and statutes of a sovereign prince, within his own dominions; *ipso facto*; malefactors and rebels to his majesty, when they first set foot upon his shore.

As for their renouncing all equivocations and mental reservations, which is the ground upon which they all tread, that will signify nothing, when we consider the nature and quality of a true Jesuit, which is, tenaciously to hold and adhere to the dictates and positions of their superiors, as believing what they teach to be all inspiration. Now their heavenly doctrine is no more than this; that it is lawful for them, not only to deny and conceal the truth, but also piously and religiously to affirm, to swear by, and invoke God and their salvation to attest those things which they know to be assuredly untrue. Thus Toletus, both a Jesuit and Cardinal, l. 4, of his instructions to the priests, c. 21. If it be a secret crime concerning which any one is examined, he may make use of equivocation. As for example, if I be asked whether I did such a thing or no? I may answer, No: with this reservation to myself; I did not now do it.

Gregory de Valentia asserts the same: If the question, saith he, be not fit to be answered, though you be upon your oath, yet shall no perjury be committed, though the party swear contrary to the intent of the judge; such a one does neither lie, nor take the name of God in vain, when it is for his own preservation.

Andreas Eudemon Johannes is another of the same stamp.

Martin Azpilcueta, of Navarre, proves equivocation to be lawful, from the example of St. Francis, who being asked by certain officers, whether such a murderer did not run such a way? Put his hands into his sleeves, and cried, he did not pass this way: meaning, that he did not fly through his sleeves.

The fore-mentioned cardinal Toletus also affirms, That if a priest be asked by the magistrate, whether he saw such a one at any time? He may answer, No, for he did not see him that he should tell the magistrate; or he did not see him in a beatifical vision, or I did

not see him at Venice, &c. Many more examples might be brought out of the same, and several other printed authors; neither are the equivocations of Tresham, Garnet, and others unknown to ourselves, as those of Richcome are in France, who affirmed, That he never heard the last deceased Henry, called tyrant by any of his subjects, though he had heard Henry Valois, the last murdered king often so reviled. So that it may be well said to be the Jesuits motto,

Jura, perjura, secretum prodere noli.

Swear and forswear—

But the main secret to betray forbear.

Thus while they pretend to renounce and detest equivocation, mental reservations, and dispensations; reason itself must needs persuade us that men principled and educated by such instructors, are guarded with a good *Salvo*, for those very equivocations which they seemed to abjure.

No less, if not more apparent is the fallacy of their disowning and disavowing that dismal doctrine, of killing kings and princes.

To which purpose Gawen fell short in affirming, that only Mariana the Spaniard was the upholder of that dreadful opinion: witness the writings and approbations of Stapleton and Garnet; and the apology of Jacob Clements, in some part recited in the oration to the king of France, against the readmission of the Jesuits into that kingdom. Commolet and Guignardus, by whom that bloody act of Jacob Clements, who murdered Henry the 3rd of France, was called the gift of the Holy Ghost, as is averr'd in the forementioned oration to Henry the 4th. And who so wicked among us, saith the same oration, as not to see, that if Jacob Clements had not deeply drank of the Jesuits poison; he would ever have thought of killing his lord and master. The warlike prowess and renown of Henry the 4th, could not defend him from the treachery of a bejesuited enthusiast, who confessed that he had sucked all his king-killing malice from their diabolical oratory: And so far was Mariana from being the sole supporter of this doctrine, that Francis de Verone wrote in the defence of Chastell, who had stabbed Henry the 4th, and John Guret and John Hay were both banished out of France, for publicly teaching their disciples the vicious precepts of early treason.

Nor is there any thing more horrid among all the butcheries of the heathen sacrificers, than the ceremony, which the Jesuits use, at the consecration of the person and the dagger, which they design for a royal massacre. For the intended executioner is brought into a private room, where the dagger, carefully wrapt up in a fair linnen cloth, and sheathed in an ivory sheath enamel'd with several strange characters, with an *Agnus Dei* appendant, is at liberty to dazzle the murderer's eyes. Then the weapon being drawn, is sprinkled with holy water, adorned with a rosary of coral beads, and so delivered with these words. Chosen son of

God receive the sword of Jephtha, the sword of Sampson, the sword of David with which he cut off Goliath's head, &c. go and be prudently courageous. Then falling on their knees, they mumble forth this dismal exorcism; Cherubims and seraphims, ye thrones and powers, ye holy angels all descend, and fill this blessed vessel with perpetual glory; daily offer to him the crown of the blessed virgin Mary, the holy Patriarchs and Martyrs; For he is now your own, and no longer belongs to us. Then they bring him to the altar, and shewing him the picture of Jacob Clements, Strengthen, O Lord, they cry, this thy arm the instrument of thy revenge. Let all the saints arise and give place to him. An invention of men worse than devils, enough to amaze heaven itself; which shews that the words of dying men are not always oracles, when they go about to palliate embodied villany. Nor was Mariana's book exploded, as Gawen avers; but it is true that care was taken by the Jesuits to suppress both Mariana and others, for he was not alone, merely out of necessity, and to divert the storm that threatened them from the court of France. And thus the world may see the folly of that vain compliment; That a whole order should suffer for the rashness of one man.

As little cause there is for us to believe, That the whole catholic world should be the Jesuits advocate. At least the whole catholic world has taken a very ill cause in hand, to defend an order that has so ill behaved itself as to be expelled out of France for murder; out of England for high treason; from Venice, almost in the sight of Rome itself, for their insufferable ambition, and designs of bloody revenge; out

of Bohemia, for being common disturbers of the public peace; out of Moravia and Hungaria for the same cause; out of Transylvania, for being almost the ruin of that country; and out of the Low Countries for their continual misdemeanors; and lastly, this may be also added, that Ferdinand king of Sweden was expelled his kingdom, for endeavouring to obtain their readmission after they had been ejected by his subjects.

As for father Harcourt, let it not seem strange, for I find they were all alike in haste to reach heaven before sun-set, that he should pretend so much ignorance of the plot. For the reason is plain; he was resolved to visit St. Peter in the Jesuits livery, and to let them see he was true blue: while his own letter under his own hand, written into the country to give notice of sir Edmundbury Godfrey's death, three hours after his murder; and publicly to be seen, puts a most cruel slur upon his late protested hatred of mental reservation and equivocation.

Now as for their prayers for their judges, and the discoverers of their treason, in my judgment they might have spared them. For why should they be so zealous to pray for them, when they would not so much as beg one tear from those that were not of their own profession? They were no prayers of charity, but rather the curses of their malice, while they laboured to scandal the justice of such most eminent judges, the impartiality of so sound a jury, and the fidelity of such witnesses, who having so highly merited of the whole nation, have rendered the sufferers more remarkable in their ends than in all the progress of their lives before.

AN ANSWER to the Reflections on the Five Jesuits Speeches; or, General Rules of Christian Charity. Together with the Speech of Henry IV. King of France in behalf of the Jesuits.

FOR purposes best known to the divine wisdom, God has been pleased to suffer amongst men, some who never had inclination to goodness, generosity, or any the least moral virtue: such true children of him who was a liar from the beginning, cannot endure any other man should be esteemed pious, just, or true; of such our blessed Saviour speaks Matt. 11. 18. These diabolical natures combat religion as their most mortal enemy, in what shape soever they meet it: if it appear in severe mortified devotion, then it is called by them madness, as of St. John Baptist; Behold a man that has a devil; if it comes drest in the charming shape of love and sociable conversation: then, as the blessed Jesus, beheld a drunkard and a wine bibber, a friend of publicans and sinners; such children of perdition, full of envy, malice and all ungodliness, are ever busy and taking more pains to serve the kingdom of darkness, and compleating their full measure of wickedness, than the best of saints do to arrive at those blessed

mansions prepared by their loving redeemer in the kingdom of the God of love: of this sort of spirit must he certainly be, who was author of the preamble and postscript printed with the Jesuits speeches: for were it likely that men should be so infatuated by the principles of any religion, as to die with expectation of reward from him they call the God of truth, when they invoked him with their last breath as witness to a lie, could it be possible, I say, that men should arrive at such madness. Yet ought poor limited and undiscerning men leave them to the judgment of the great, wise, just and all-seeing God to punish them as they deserve: but nothing is more certain than this truth, that the God of truth hates falsehood above all things; and therefore when provoked both by that, and the utmost contempt of his divine majesty, by being invoked to be a witness to a lie, he will above all crimes punish such contempts with his utmost vengeance: and is it possible, but that all men of all religions, who believe at all

the immortality of the soul, should also believe this truth as certainly as they must believe there is a divinity, which gave their souls that immortality. Yet dares this uncharitable author, as if he were the great Searcher of Hearts, accuse five persons, pretending, as he says, to dignified orders of religion and sanctity, together with the perfections of noble learning, which usually betters men, to break through all the impalements of divinity and morality, and with a terrible lie to take their ultimate farewells, merely for the vanity of imposing a belief of martyrdom, and to insinuate their heresy into the credulous and unstable: Oh! most ridiculous conception, unlikely indeed to bear so great sway with the living as the last words would do of the most notorious malefactors, much less theirs who by a continued series of good life and modest behaviour had spent their time, (as they thought,) in their service of God, living some of them to a great age, without being accused of any crime against human society, until this the worst of crimes which was sworn against them, but that single one of designing the murder of God's Vicegerent their anointed king, if true, was enough to make black a continued life of virtue, longer than Methusalem; but they with their last breaths deny their guilt, and others upon the bible swear it, these are but four, and they were but five, those were persons who had dedicated themselves wholly to the service of God in the way they, at least, believed true; three of these are men by their own confessions guilty of many foul and notorious crimes, not yet giving the least testimony to the world of their conversions by a good life, all of them of indigent and desperate fortunes, which they have well amended by their pretended discoveries; which true or false, it concerns them as to their well being here to make good; the others can have no benefit by their attestation, (but if false) the eternal damnation of their souls; a bribe no man would be fond of. Now if this be seriously considered on both sides, will it not be enough to sway with the most partial standers by, at least to suspend his opinion of the truth until it shall be revealed either in this world or the next by the Almighty God, to whom they have on both sides appealed, and who alone sees truth through all disguises.

But not to suffer all the dirt to stick, the malicious pen of this author has thrown on their (at worst but doubtful) memories, we will slightly consider the strength of his arguments, avoiding all offences to the magistrate and the laws we live under, by whom supposing this (scarce probable) evidence against them true, they were most unjustly condemned.

His preamble and first paragraph of his Postscript, tends only to persuade us that these 5 dying men did hope by their damnable lyes to escape purgatory and leave it on their left hand and at once slip from the cart to Jacob's ladder mount directly up to heaven; which no man in his right wits can believe, except their accusers will swear they told them so, or that he would

produce some authority from popish doctors, that should not only allow equivocation lawful but dying in a lye meritorious: for as for his calling them in the close of that paragraph *ipso facto* rebels and malefactors when they first arrived, that can be no proof against them, since the same argument holds against christianity itself propagated by the apostles and their followers contrary to the laws of nations then in force: and to which all persons pretending to make converts may readily reply in the words of the Apostle forbid by the Jews to preach any more in the name of Jesus, Whether it be better to obey God or man, judge ye.

I do not undertake to vindicate the religion these men died in, much less the opinions or extravagancies of some doctors of it, the laws forbidding the one; and the Romish Church itself the other; I will therefore only say it is no more just to tax the whole society with the heterodox opinion of two or three men, than it would be to accuse Protestant Religion with king-killing principles, from the practices of some called so in the murder of K. Charles the first; and from the multitude of sermons and other discourses printed in commendation and vindication of that detestable villany: but because our author refers much to the oration made to Henry the fourth of France, I will only by way of reply, insert that great king's answer to it, mentioned by Mr. Gavan, which was in these words:

THE SPEECH OF HENRY IV. King of France in behalf of the JESUITS.

1. "The care you shew of me and my kingdom is grateful to me; albeit you seem not to have thoroughly weighed the things you demand, nor are you, as yet, so well acquainted with my thoughts, as I am with yours.

2. You deem the weal of my kingdom to consist in the proposition you have made; and you tell me it is a matter that deserves to be most carefully deliberated. And I tell you, you have said nothing which I have not most carefully weighed and most diligently examined by myself these eight or nine years.

3. You take yourselves for men of great understanding and experience in the common wealth. But believe me, I know as well as you all that hath been in controversy in this matter.

4. First of all you object to the Fathers of the society, the assembly of Poissy;* but without cause. For if there had been at that place others like many of them, the Catholic Cause would have had a more happy success. Therefore that which you turn to their dispraise, any just umpire will attribute to their virtue. But that which I most wonder at your judgments for, is, that so preposterously you condemn the society of ambition, whereas the Fathers of the society, with a constant submission, have ever refused all honour and preferment, as well ec-

* The Clergy held an assembly at Poissy anno 1561, in which the society was allowed of, and admitted, though not fully.

clesiastical as political: and which is more, they bind themselves by vow not only not to aspire to honours, but even to refuse the same when they are freely offered unto them. Consider their whole course of life, and you shall find that all their ambition is to labour for to help all, and that without any pretence of interest or gain. They value not the expences of their own pains, so they may profit many.

5. But you call to question the very name of the Society of Jesus, and for that you tax them. But see with what reason, for if they must be blamed for that holy name, what shall we say for those religious persons who take their name from the most blessed Trinity? and your daughters here at Paris; what will you think of them that call themselves Daughters of God? Finally how will you censure my knights, who are called of the Holy Ghost? Truly I do not more dislike them that take their name from Christ, than any other.

6. You object the divines of Sorbon condemned the Jesuits. I do not deny it. But they condemned them being innocent, unknown, and unheard. For this I call to witness, those very divines themselves, who now admit them, whom their predecessors banished, and honour them whom they contemned; nay they praise now and extoll those that were condemned, and stick not to take them for their directors, and masters, in all kind of learning.

7. You tell me Jesuits have hitherto remained in France only by connivance. Here I acknowledge, and reverence the divine providence, that hath reserved this honour for me, not yet achieved by others, that I should establish in this realm the Society of Jesus, which hitherto hath had no settled abode in France. My predecessors have received the society, I will patronize and preserve them.

8. Peradventure you will turn to the Jesuits discredit, that for which you ought to praise and honour them: the University of Paris earnestly and openly opposed them. And what, I pray, was the cause of this opposition? All was, that the Fathers did not only equal others in learning and industry, but also went far beyond them. A clear testimony of this is the great number of youths that frequented the Fathers Schools, where (together with learning) they learnt virtue. But to stop this opposition, I will make a decree that the universities of Paris shall no more oppose them. And this you will be glad of.

9. But you will tell me, that the ablest of your parliament got not their learning of the Jesuits, this I will not much gainsay. For the ablest of you, as they excel in learning so they exceed in years. These got their learning in foreign nations, before the society set foot in France. Others did not so, and so I am certain they think and speak otherwise. And what need they speak? the matter itself speaks. We ourselves saw, how at the departure of the society out of France, all the muses seemed to depart. Our University was desert and mourned: those came seldom at it, who before in

great numbers frequented the Fathers. Yea many departed the realm, and forsook their country to study in the Society's Schools; nor could your decrees or threats stop them.

10. You say the Fathers joined themselves to the League, that is not to be imputed to their fault, but to the iniquity of the times. But this I persuade myself, upon the assurance I have of the integrity of their consciences, that they will become such towards me, as it becometh them, who, mindful of benefits, desire to shew themselves most grateful.

11. Now some of you impose on the Fathers a new crime, and peradventure as yet unheard of, saying, that they draw to their order young men of the most forwardness and best dispositions. An unpardonable crime; yet I praise them and esteem them particularly for this that you condemn. Do not we, though in a different matter, do the selfsame? A captain that is to raise soldiers, does he not cull out the choicest, and leave the meanest and least hopeful? In your parliament, when you choose a new court, or fill up an old, do you prefer the unlearnedest, and least apt for business? If the Jesuits put unlearned masters in their schools, or in their churches ignorant preachers, would you not with reason blame them? What offence is it that the Jesuits should provide the fittest they can, both for church and schools.

12. That slander which concerns the Jesuits treasure, is as false as common. Go visit all the colleges in France, search all their treasures, sum altogether, and you will scarce find twelve, or at most 15,000 crowns. I know well how poor and slender furniture and provision was both at Lyons and Bourges. Nevertheless 30 or 40 persons were to be fed in each of those colleges; whereas their yearly revenues was scarcely sufficient for eight masters.

13. The vow of obedience with which they tie themselves to the pope doth not oblige them to be more faithful to externes, than to us. Neither is there in that vow any thing contrary to the oath which they will swear unto me. They will attempt nothing (I am sure) against their prince. That vow to the pope, bindeth them to go to barbarous and savage nations that they may reduce them to the Catholic church. The whole world testifieth that the remotest regions of the Indies, together with infinite heretics, have been by their pains and learned endeavours brought to Christ's fold. I remember I have often said, that if the labour of the Spanish Father be so profitable for Spain, why should not France with reason expect the same? Is that kingdom more fortunate and flourishing than this? Spain is loved by the Spaniards, and why should the French hate their native soil?

14. But as you are wont to say, those men seek to be admitted into provinces and kingdoms what way soever they can. Pray you is this an offence? It is the custom of all that follow the instinct of nature. I myself, by what means I could, sought to get my crown. Howsoever we cannot admire the Fathers con-

stant patience whereby they go through so great and hard matters, and bear so many and so heavy crosses.

15. Neither do I esteem them the worse, for that they be so observant of their rules and constitutions. This is that whereby the society doth increase, flourish and better itself every day more and more. For this reason I thought not good to change any of their constitutions or rules, though I have made some change in others, which was not approved of all. But that is no matter.

16. The Fathers of the society hath many back friends, among some that seem holy and religious persons, who speak ill of them. This no wise man will wonder at. Our age is not come to that sanctity, that ignorance should cease to hate learning, or corruption of manners leave to envy integrity of life. It was so in times past; and so it is still. These moths always gnawing on learned works. No prosperity so circumspect, that can escape the tooth of malice, hatred and envy, always attended the highest things. I observed, when it was consulted about the recalling of the Jesuits into France, that two sorts of men did specially oppose themselves, heretics, and loose living church-men: the one was moved thereunto by their bad faith, the other by their bad life. But I am so far from being hereby moved to alter my intended purpose, that I am more confirmed in my resolution.

17. The Fathers of the society speak and think honourable of the pope, so they should, and so do I; I join with them, since I am certain that in averring and defending the pope's authority, they differ not from other Catholic divines.

18. Neither did their doctrine ever give occasion to clergymen to deny me tribute. Now is there any to be found whom these Fathers words or books animated to killing of kings. Whatsoever some have patched together to bring them to discredit, is all a fiction and mere fable. Thirty years and more are passed since the Fathers began to instruct the youth of France both in virtue and learning. Of these some have gone through with all their studies in their schools. Others have broke off, and applied themselves to physic or law. Tell me whether any of these ever learnt of their masters to lay hands upon kings, and to kill them? I tell you the Fathers are so clear, that they are content to appeal even to their enemies judgment. There are some pulpit-men, among the heretics, who were trained up in the Fathers schools: ask these men their judgment concerning the Jesuits lives and doctrine: but whose cause is so good as to desire to be tried by enemies? Yet I am sure in their case this has been done, the ministers have been asked their judgments of the Jesuits: and they have given no other answer, but, that the Jesuits lives cannot be reprehended, and for their doctrine, that it is in too clear a sun for to be questioned. Surely few can be found that will dare to stand to their enemies judgment, their security of conscience must needs be great, that fears not any adversaries verdict.

19. The confession of Barriere, who attempted against my person, doth not infringe that which I have said. For so far was any Jesuit from that fact (which you nevertheless affirm) that one of these Fathers of good credit advised me of it in time, and another of them deborted and deterred Barriere from his attempt, proposing to him God's heavy judgments due to such malefactors.

20. As for Catel, all imaginable torments were not able to wrest the least word against Varadius or any one Father of the society. If this be not so, why spared you the guilty? Why let you them go when you had them fast? Why punished you them not according to your laws and court?

21. But to grant you that that never was; suppose some one of the society had attempted against my person. Will you condemn all the apostles for one Judas? shall the punishment light on my head, for whatsoever any of the soldiers shall trespass in military license? I acknowledge the hand of God, whose will it was to have me pressed and humbled at that time; the same hand raised me, and set me safe again. God's goodness and providence be thanked. I have learnt to forget and forgive injuries for God's sake, as I willingly do for that king who is greater than myself. And now I will be so far from remembering injuries done unto me, or revenging the same, that I will daily offer up prayers for my enemies. All of us have need of God's mercy, which is no ways better to be obtained, then by promptly and readily pardoning those who have offended us."

Now it is plain by this discourse, that this great and wise prince had well considered what he spoke of; and had he found their doctrine to be such as is pretended, he would have been too nearly concerned to have become their advocate and protector.

As for the pretended horrid ceremony for consecrating a person and dagger, designed for a royal massacre. I will only speak of it in the author's own words; that it is an invention of men worse than devils, a lie indeed of so impudent a nature, that it is enough to amaze heaven itself, to see how devils incarnate can out-do in malice the spirits of everlasting darkness.

Let any impartial eye observe the countries our author sums up to banish the Jesuits; and besides that, he will find false causes assigned in most, if not all the examples; he does in his last overthrow all that he has said, for if Ferdinando king of Sweden was expelled his kingdom for endeavouring the re-admission of the Jesuits, then it is as plain that he did not believe they held tenets destructive to kings, as it is that these did who destroyed him, as much as in them lay by expelling him his kingdom for defending the Jesuits. Thus malice makes men blind: but above all, who can believe him, when he says Father Harcourt's letter about sir Edmondbury Godfrey's murder written three hours after it was done is so publicly

to be seen, when any man that reads the trial may perceive it could not be produced; and if it were found since, and so public as he pretends, no doubt our author would have as well recited, as referred to it, for doing so would have been worth all he hath said.

As to their prayers for the judges and accusers, in my judgment they were more likely to proceed from charity than malice, let our good natured author be of another opinion if he pleases, but his reason for the contrary is none; for it is well known St. Stephen at his stoning did the same, and yet desired neither prayers nor tears of those that were not of his own profession; but it is true those prayers may become curses to the witnesses, if the deposition against them be as false, as it is evident some of what they have deposed to king and council hath been, as I could instance in the case of Don John, and divers other matters, if I were minded to disparage the king's witnesses, as they call them: but this I cannot forbear observing, that it may be justly said of some of them, as doctor Dun says of witches, that they confess things impossible. But leaving them to the great Judge of all things, I will only remind them of this truth, that if they betray innocent blood for gain, and make God's name contemptible; by invoking it to a falsehood; no equivocation, nor mental reservation, will shelter them from his dreadful vengeance which he in his due time will visit them with: and it is a thousand to one he will for terror to others and despair to themselves, make them the most miserable and contemptible wretches breathing in this world; but if they have sworn truth, let them give a lustre to it by amending their lives, that they and the nation they have saved by their discoveries may glory in one another, to the confusion and destruction not only of these, but all other its enemies.

But to conclude, I will desire but any reasonable man to consider the absurdity of their arguing, who pretend that not only these last five, but the eight others condemned by the same evidence, had dispensations to die with lies in their mouths: and that by the doctrine of equivocation and mental reservation, they and all other papists can say and swear any thing, when it is plain to all the world, that nothing but their fearing to swear falsely lays them liable to the laws against popery; can it be believed that men who forfeit peerage, offices of honour, trust, power and profit, lose two thirds of their estates, and make themselves more obnoxious to more severe laws than ever was in force against Christianity during the first ten persecutions, and all this because they will not swear against conscience, can have dispensations so convenient to their earthly well being, and make no use of them; nothing can be more contradictory to human reason than these calumnies, nor can any indifferent person chuse but see through such absurd contradictions. In fine there has thirteen men, of which one a Protestant, have died already by the accusation of these four witnesses, all have gone out

of the world absolutely denying the matters they were accused of, any one of them might have secured a pardon by confessing his charge; they have been all of them of approved honest conversation in their several callings during the rest of their lives, and yet we must not believe one tittle of their last words spoke so plainly, (if false) to their destruction both here and hereafter; to their destruction, and not the least to their interest: yet on the contrary we are not so much as allowed to doubt the fidelity of their accusers, though men notorious for scandalous and wicked lives; men who from abject qualities assume to themselves by this means dignities, and pretend to honours and titles; and who from the extremest poverty and necessity are advanced to opulency and plenty for accusing persons of consulting with them about affairs of so high a nature as the alteration of kingdoms, and murdering the best of monarchs. Persons of such qualities and fortunes, as would with Job have disdained to set them with the dogs of their flock, who if they would have made use of such pitiful instruments, would certainly have taken care for their support, and not have seconded their imprudent election of such counsellors in matter of so great trust, with a second error of suffering them to want when they had trusted them, but would have provided for them as those we see do sufficiently, who now make use of their service; but though we may not call them perjured persons until convicted, which their protectors will easily prevent, by not permitting them to be indicted, yet none can deny us the liberty of thinking that men will easily discern the difference between the dying and the living testimonies, let their pretences and lies be never so many; but to the God of truth we refer both causes, not doubting but in his good time all these secrets will be brought to light to his everlasting glory.

P. S. Since the former, there is come forth another paper, called 'An Answer to the Jesuits Speeches, by Esrael Tongue, D. D.' full fraught with labour and studied falsehoods, but so plainly malicious, that nobody who had not been a witness of the success of their ill spun improbable stories in their first pretended discoveries, could have had the least hope, these should have prevailed with one man, so contrary to the sentiments of human nature. No, we all too well know sophistry vanishes at the approach of infallible death, and that Dr. Tongue, and the more hardened impostor his companion in title and design, will find at the approach of that grim usher to their eternal abodes, no resolution but a good conscience can make them follow him smiling, this truth will save us a labour to answer his frivolous anatomizing those mens last words, delivered so cheerfully and heartily at their execution; only we may safely make reflection on the last paragraph of his impious and uncharitable paper, where he says, It is no more than they

expected, a truth undeniable as to him and his companions, who cannot but be conscious to themselves whether the evidence given against them be true or false, and from that might well expect their denial, which no man else that believed them guilty did or could: But it is in vain to warn thinking people from making natural reflections on these inens dying words, until it be proved that they made it their practice to violate all laws human and divine, by better evidence than such as have been noto-

riously guilty of doing so, by a continued series of cheating, stealing, robberies, perjury and buggery, and all other unnatural crimes and uncleannesses sufficiently known, and above denial public to the whole world; but what truth can be expected from a low spirited wretch, who for a little money (of which he complains he has been couzened too) can be contented to debase his character of divine to be the zany or deputy devil to such mountebanks.

Annimadversions on the last Speeches of the five Jesuits, viz. THOMAS WHITE alias WHITEBREAD, Provincial of the Jesuits in England; WILLIAM HARCOURT, Pretended Rector of London; JOHN FENWICK, Procurator for the Jesuits in England; JOHN GAVAN alias GAWEN, and ANTHONY TURNER; who were all executed at Tyburn for High Treason in conspiring the Death of the King, &c. June 20, 1679.

PROTESTANTS, who make conscience of their words, and count it a horrid crime to speak otherwise than they think when they are dying, may be ready to take the measures of others by themselves, and to judge those guiltless, who, when they are dying, assert their innocence with the highest asseverations. But they will see reason to judge otherwise, if they take notice how full and clear the evidence is by which these Jesuits were cast, and without understand the principles of the persons executed, and their associates, which they were greatly concerned to put in practice, are such as destroy all confidence in their words living and dying. For by the common doctrine taught and received amongst them, they are furnished with expedients whereby they may deny what is most true, and affirm what is most false; and that with most solemn oaths or dreadful imprecations, and yet neither lie, nor be forsworn, nor any way sin in the least degree; and so may without any scruple endeavour to deceive others by the use of such falseness, as at other times, so even when they are dying. Their principal artifice, to wave others, is that which they call mental equivocation, not on account of the ambiguousness in the words, though they may make their advantage of this also; but because of a double sense in some proportion, partly expressed, and partly reserved in their minds; so that it is true in their own sense, but false in the sense of all that hear it. The use of it is allowed by all sorts of Papists, and particularly the Jesuits; it is much endeared to them, and more familiarly used by them than any other fraudulent arts, because the fraud herein is both more easy, and undiscernable, and innocent in their account, and the advantage of it admirable; there being nothing so false but it may be made true, nothing so true but it may be made false

by this art. And therefore it is no wonder if they decline it not at trials in courts of judicature, no nor when they are dying and approaching the dreadful tribunal of the Judge of Heaven and Earth, though truth and sincerity be then, if ever, necessary. They have the confidence to plead the examples of God, of Christ, of the ancient saints recorded in scripture, in justification of it. But our Jesuits have more pertinent instances, those of the same principles, and in the like circumstances, to encourage them with oaths and asseverations to assert what could not be true, or deny what is not false, but by this device.

F. Garnet, predecessor of F. Whitebread both in his office and practices, being principal of the Jesuits, and chief promoter of the Powder plot, (a) when after secret conference between him and Hall, another Jesuit in the Tower, he was asked before the Lords Commissioners, whether Hall and he had any conference together, and was desired not to equivocate; he swearing upon his salvation, reiterating it with so many horrid imprecations as wounded their hearts to hear, he denied again and again that he had any discourse; yet afterwards when he knew that the thing was known, and that Hall had confessed it, he cried the Lords' mercy, and said he had offended if equivocation did not help him. (b) Another time being asked whether he did not swear upon the holy evangelists, that he had neither writ nor sent to the Jesuit Tesmond, which he knew to be false? He answered, That he swore so lawfully enough, not knowing then that his letters were intercepted, and thinking they could not have disproved him.

(a) Gunpowder-Treason, p. 176. & Casaub. Ep. ad Front. Duc.

(b) Ibid. p. 200. Gunpowder-Treason, p. 191.

Tresham, (c) one of the chief undertakers in the Powder Plot, upon the examination did confess that F. Garnet was privy to the treason: but afterwards by the importunities of his wife, three or four hours before his death, he protested and took it upon his salvation, setting it down under his hand, That his former confession was false, and that he had not seen Garnet in sixteen years before, at the least; and so he died. His protestation and oath were not long after proved to be untrue; yea, and Garnet himself confessed that within that space he had seen him many times. Whereupon being demanded what he thought of Tresham's dying oath and protestation? He answered, It might be he meant to equivocate.

Hereupon Garnet thus resolves the case about the lawfulness of equivocating at point of death, as it was found in his papers communicated to Casaubon by king James: "If any one," says he, "shall enquire whether it be lawful to imitate Tresham's equivocating in the very article of death, upon some necessity, as to free a friend from danger? It is truly lawful," says he, "and we may prove it by an argument drawn from confessions; and since it is lawful for any one to use this in the course of his life, why may it not be used also by a dying man?" Casaubon, *ibid.* p. 202.

Hereby we see that these were their practices of old, and justified by their teachers as lawful even at the hour of death; therefore we should not be surprised, if we find our Jesuits use these arts in their last speeches; this is not new to them, nor unwarrantable either at public trials or executions.

But their principles are further considerable, of which take an account in some severals.

First, by their doctrine they may lawfully say what is false, making use of a mental reservation, by virtue of which that which is false in itself, will be true in their reserved sense; and therefore though it be gross untruth, as expressed; and they know it to be so, and use it with an intent to deceive others, yet they count it no lie, and therefore no sin, and so they need not fear to use it when they are passing out of the world. That it is no lie, they generally maintain. "If a man," saith Persons, "use mental reservation, he doth not offend against the negative precept which forbiddeth to lie. It is freed from the nature of a lie, by the due and just reservation in the speaker's mind (d)," says he. "By understanding something in our minds," saith Navarr, "we may make that true which we affirm, though it be false; and that false which we deny, though it be true (e)." And Sanchez the Jesuit more fully: "If a man do swear that he did

not do something which indeed he did do, understanding within himself some other thing else which he did not do, some other days than that wherein he did it, or any other addition that is true, this man does not indeed either lie or forswear (f);" producing many authors for it, and referring to divers others (g).

It seems mysterious, that the same thing should be both true and false; that he should speak what is false in itself, and in his own judgment, and that which tends to deceive others, and yet not lie. But they would clear it thus; A proposition formed in this case has two parts, one expressed and the other concealed; that which is expressed is false, but the part concealed being added to it, the entire proposition is true, e. g. F. W. did not design to kill the king, this is false; but adding some secret reserve, viz. king Harry, or king Charles before he was born, or in Scotland, and the whole is true. And by this device our Jesuits, though they as fully designed to kill Charles the 2nd, as ever Ravillac did Harry the 4th; yet they may deny it with all asseverations, and yet not lie at all (as they believe by virtue of this device): they may assert their innocence in terms which are false in the sense of all the world, yet by such a reserve all will be true in their own sense; and so in averring that which is most false, they persuade themselves they do no more lie, they do no more sin, than the child unborn.

And here let the world judge what regard is due to the words of those, though they be the words of dying men, whose doctrine assures the most guilty persons in the world, that if they persist in a false defence of their innocency, even unto death, yet by this method they teach them, it will be no lie, it will be no sin at all.

This may be enough to satisfy us concerning the common expressions wherein they all agree to disclaim all guilt. But there is something singular in F. Gavan's speech, which requires a particular consideration, and yet it may be grounded on the common principle. I cannot imagine how that which he protests with the last words of a dying man to vindicate his Society (for which I wish he were not more solicitous than for his soul) can be true without some fraudulent reserve, since it is very false in itself, that the Jesuits allow not the doctrine of king-killing, but detest and abhor it, or that none of them hold it lawful for a private person to kill a king, but only Mariana. I suppose the principles of the Jesuit Sanctarellus are little more favourable to kings than those

(f) 'Si quis juret se non fecisse aliquid quod revera fecit, intelligendo intra se aliquid aliud, quod non fecit, vel aliam diem ab ex in qua fecit, vel quodvis aliud additum verum, revera non mentitur nec esset perjurus.' Op. mor. lib. 3, cap. 6, num. 15.

(g) Angelus, Sylvester, Navarr, Valentia, Salon, Toledo, Manuel, Philarchus, Suarez, Leonardus, Sa.

2 N

(c) Proceeding against Traitors. Casaub. *ibid.* 231.

(d) Mitigation, cap. 10, num. 23, p. 424.

(e) 'Subintelligendo aliqua quibus fient vera quæ annuimus, vel falsa quæ negamus.' Comm. in C. human. aures. q. 3, num. 13.

of Mariana, his book on that account being condemned and burnt by the parliament at Paris; yet it was printed at Rome, and approved by Mutius Vitellescus, the general of the Jesuits. And when the chief of that order in France were examined, whether they did believe as their general did at Rome? or would do so if they were at Rome? It was answered by F. Cotten in the name of the rest, That they would change their judgments with the country, and would believe as they did at Rome, when there, though he ridiculously denied that they did believe so while they were in France.

However Mariana had many of the Jesuits who expressly owned his doctrine; Ribadeneira, Scribanus, under the name of Bonarscius, Becanus, Gretserus, do partly praise him, and partly defend his opinion. Another patron of the Jesuits says plainly in an English treatise, That they are enemies of that holy name of Jesus, that condemned Mariana for any such doctrine. And his book having been before printed at Toledo with the approbation of the superiors of the Society, there was a new edition of it at Mentz by the procurement of the Jesuits there. It is much if J. G. could make all these to be but one Mariana. And wherein does Emanuel Sa(g) come short of Mariana in that particular wherein the Jesuit would clear the Society? Or Becanus in his English controversies? Or Suarez? a Jesuit of such reputation, that his judgment alone is valued more than a thousand other authors, who expresses himself thus:

“When a king is deposed, then he is neither lawful king nor prince; and if therefore he endeavour to keep the kingdom under him by strength, then he is an usurper, no lawful king, having no true title to the crown; for that (h) after the decree of deposition, he is altogether deprived of his kingdom, so that he cannot with a just title possess, and so may be used as a tyrant or usurper, and by consequence may be slain by any private man.”

Here we have multitudes of Jesuits in one, allowing the killing of kings by any private man: for not only divers bishops, but the provincial Jesuits of Portugal and Germany, testify their approbation of his judgment; and a whole university declares, “That there is nothing in it but ought to be approved, every thing being according to their own opinion and judgment (i).” Add but one F. Campian,

(g) Vid. Aphor. v. tyr. num. 2, p. 115.

(h) ‘At vero post sententiam latam omnino privatur regno, ita ut non possit justo titulo illud possidere: ergo ex tunc poterit tanquam omnino tyrannus tractari, et consequenter a quocunque privato poterit interfici.’ Defens. fid. lib. 6, cap. 4, num. 14 and 17.

(i) ‘Nihil est in toto hoc opere a nostro omnium sensu discordans, cum de hac re sit omnium nostrum eadem vox idem animus eademque sententia.’ Cens. academ. Complutensis.

who may be instead of all. He declares, “That all the Jesuits spread far and wide through the whole world, have entered into a league to make away all heretical kings in any manner whatsoever: nor will they despair of effecting it, so long as any one Jesuit remains in the world (k).”

There is no room to alledge particular doctors, which might easily be multiplied. That which we charge the Jesuits with, in reference to the murdering of kings, may be reduced to two heads:

1. That the pope has power to depose kings for heresy especially.
2. That being deposed, any one may kill them, at least by the pope’s order.

The former is the doctrine of their church, and not of particular doctors only; being established not only by the opinion of all sorts of their authors, but by the determination of popes, and the decrees of general councils; so that hence the famous Jesuit Lessius declares, that if the pope had not this power of deposing kings, the church which has taught it must of necessity err: and to hold that is heretical, and a more intolerable error, than any about the sacrament can be. And a greater than he, Cardinal Perron, (in his *Diverses Oeures*, and *Recueil General des Affaires du Clerge de France*) declares it as the sense of the whole clergy of France (who of all the Romanists are accounted least favourable to the papal power), that all who maintain the contrary, are heretics and schismatics. (l)

For the latter, we have the declared sense of the whole body of the Jesuits in France (than whom, none of the society in any part of the world, were more favourable to kings) in an Apology for their doctrine on this subject, to Harry the 4th; yet there they declare in the words of Valentia, consonant to the doctrine of Aquinas, Cajetan, Sotus, Covervius, Salonius, and others, That a Tyrant who has no just title, but usurps authority, may be killed by any one. (m) Now there is none of them who

(k) In Epist. ad Concil. Reg. Anglii, p. 22.

(l) Defens. decret. concil. Lateran. p. 46. Ergo tam est certum posse Pontificem coercere vel punire principes temporales, his pœnarum generibus, quam est certum non posse ecclesiam in fide et moribus errare. Here Suarez maintains it to be as certain, as that this church is infallible, Defens. fid. l. 3. c. 23. n. 16.

(m) Si est tyrannus secundo modo (viz. per arrogatam sibi in justam potestatem) quilibet possit illum occidere, Apol. Societ. Jes. in Gall. 1599. append. p. 115, &c. Suarez Defens. fid. lib. 6. c. 4. n. 14. Si rex talis post depositionem legitimam, in sua pertinacia perseverans regnum per vim retineat, incipit esse tyrannus in titulo, quia non est legitimus Rex, nec justo titulo regnum possidet. Assertitur hunc tyrannum quoad titulum, interfeci posse, a quacunque privata persona, idem, ibid. num. 7.

have the use of reason, will deny, but a king deposed by the pope, is such a tyrant, a mere usurper, without any just title; and therefore the Jesuits cannot deny, but it is their doctrine, that a king deposed by the pope, may be killed by any one.

Or if all the Jesuits in France will make no more than one Mariana, let us see if the Jesuits of other nations may possibly do it. Bomen-cina tells us, that Valentia, Suarez, Lessius, Molina, Filliucius, concur with him and many others, in this assertion: *Licetum est homini privato, occidere tyrannum qui absque ullo titulo usurpat, &c.* It is lawful for a private man to kill such a tyrant as has no title, tom. 2. de Fastit. Disp. 2. q. 8, punct. 3. n. 2, et 3.

The premises considered, if F. G. understood them, either he intended to deceive the people with a downright lye, or with a gross untruth under the covert of a secret reservation; both are alike heinous to us, and this latter worse, because there is less fence against it: but in charity I incline to think he used the latter, because in such cases they count it sinless and innocent, and not to be declined at the point of death.

And two reserves he might make use of, one in reference to the word king; Jesuits are not for king-killing doctrine: for they will have kings first deposed by the pope, or by heresy, and then they are no kings, and so they may be killed by any men, and yet no king may be killed by any private person. All the kings of England, Sweden, Denmark, &c. may be killed one after another, by the Jesuits doctrine, and yet by that doctrine no king at all will be killed. Or he might use another reserve with respect to the words 'private persons,' understanding reservedly, persons that have no authority from the pope, or any under him. And this fraudulent reserve, F. Parsons might help him to who to avoid the charge, that they held a king condemned or deposed, may be killed by a private person; he denies that a private man as a private man, i. e. by private authority, can kill any prince.⁽ⁿ⁾ And in this sense neither Grove, nor Patrick, nor any other who undertook this horrid murder can be counted private persons: for they did not undertake it by their own authority. And the meanest and most private persons in these three kingdoms, or any other nations, may assassinate the king, by the Jesuits doctrine, if they have the pope's authority for it, immediately or mediately: and yet by no means must the doctrine of the Jesuits be charged as allowing that private persons may kill kings; and the reason is, because the pope's executioners are no more private persons than the common hang-man (as the Jesuit gravely explains it) though he use but his ax once.

What he adds concerning Harry the fourth was sufficiently confuted by Chastell, first, and after by Ravillac, by the most effectual argu-

ments that the society ever used. But my design is to shew the fraud, not the weakness of his discourse. Let the reader judge how true that is which he swears concerning his innocence, by the truth of what he protests concerning the Jesuits doctrine. Both require equal regard, both being the asseverations of a dying man; yet both might be true in his account by this artifice, how false soever in themselves, and so might innocently be asserted by a dying man.

As for their prayers for the king, I do not well understand them; they would have it thought, that they had no design to kill the king who can pray for his prosperous reign. But do they think that his majesty can truly prosper till he turn Roman Catholic? This they heartily wish, no doubt; whether they can pray, or no, I know not.

However, it need not seem strange if they should equivocate in their way of praying, since they allow of plain lyes in their public liturgies, which divers of their own authors express themselves sensible of. F. Garnet having composed some prayers for the good success of the Powder-Plot, and using them amongst his party, when he was charged with it, made use of such a plea as became such a Jesuit; he said that he made not those prayers with that meaning that the thing might fall out according to the mind of the conspirators, but rather cross to their desires, that so the safety of king and kingdom might be provided for: So that when he prayed for the ruin of king and kingdom, yet his meaning was, that they might be preserved and prosper: And so when our Jesuits pray for the king's prosperous reign, why may not their meaning be his utter destruction? for this is altogether as likely as the other. But there is no penetrating a Jesuit's meaning any where, no not in his prayers; for whatever the words thereof seem to be, the meaning may be quite contrary. So it was in F. Garnet's time, and the world is not much mended with the society since.

The forces of Charles the 5th having taken the Pope prisoner, the Emperor orders that public prayers should be made for his holiness release. The world thought that he might have saved his prayers, and given him liberty, instead of begging it. To be sure, his majesty might well enough spare the Jesuits prayers, if they would forbear their plotting against him. But to proceed,

Secondly, They maintain, that when they may lawfully speak what is false, they may lawfully swear it; it is the common doctrine of the Romanists. F. Parsons assures us, "That all divines hold, that what may lawfully be said, may also be lawfully sworn."^(o) And again says he, "It being a most certain principle, as well in reason as in divinity, that what a man may (by virtue of mental reservation) truly say, he may truly also swear."^(p) So Les-

(n) Sober reckoning cap. 5. num. 44. p. 322. vid. Suarez ubi supra, 12.

(o) Mitig. c. 11. sec. 9. num. 42. p. 468.

(p) Mitig. c. 11. sec. 4. num. 17. p. 449.

sius, "As oft as it is lawful to equivocate, it is lawful to use an oath, if it be needful, and some notable cause require it." (q) We heard Tho. Sanchez before, with the concurrence of many other authors, determining, That he who swears he did not do something which indeed he has done; yet by the help of some mental reservation, he neither lyes, nor is forsworn. (r) Add but Jo. Sanctius, who will make it needless to add any more; "That cause which does excuse a lye by a reserved equivocation, is sufficient also to excuse an oath." (s) And for this he alledgeth many authorities. (t)

F. Garnet being one day by his judges convicted of many lies, when he was brought back to the Tower, there again he was examined whether he did not repent of this infamous art, and did seriously believe it lawful? Or only used it for that time, necessity pressing him? He instead of an answer, as his manner was, writ what follows with his own hand, and delivered it to the examiners: "This I acknowledge to be according to my opinion, and the opinion of all the schoolmen; and our reason is, for that in cases of lawful equivocation, the speech by equivocation being saved from a lye, the same speech may be without perjury confirmed by an oath, or by any other way, though it were by receiving the Sacrament." And subscribed it, "Harry Garnet." And Casaubon transcribed it out of the Jesuits own manuscript. Casaub. Epist. ad Front. Duc. p. 202.

This is their doctrine; whereby it appears, that if a person be accused or condemned for a design to murder his prince, though he designed it as much as any assassinate ever did, yet he may not only deny it, and yet not lye by virtue of a mental equivocation; but though he be as guilty, and his own conscience tells him he is as guilty, as any person that ever was condemned in the world; yet he may assert his innocency with oaths; and notwithstanding by this art, he may free himself from all guilt of perjury, and all other sin. As they will have him not to lye, though he assert that which is false; so they will not have him forsworn, though he swear that which is false, in the sense of all that hear him: And this quite destroys their credit, as to all their asseverations and oaths, how many and horrid soever they be, when they think themselves concerned to equivocate.

(q) "Quoties licet equivocare, licet uti juramento, si necessitas vel causa notabilis postulat," lib. 2. De Just. et Jure, cap. 42. dub. 9. num. 48. (r) Vide supra.

(s) "Nam eadem causa quæ adest ad excusandum mendacium, equivocatione retenta, sufficit etiam ad excusandum juramentum." Select Disput. 46. num. 17. p. 330.

(t) Angelus Sylvester, Navarr, Azorius, Valentia, Salonijs, Sanchez, Toletus, Manuel, Chiliarchus, Suarez, Lessius, Del Rio, Sa. add Bonacia, Tom. 2. disp. 4. q. 1. punct. 12. n. 1. Ubi etiam Reg. Sanchez, Azorius, Lessius, Rodriguez, Valentia, Filliutius, Laiman.

They would have it observed how confident they are in swearing themselves guiltless.

"I am not now upon terms to speak other than truth, and therefore in his most holy presence, and as I hope for mercy from his divine majesty, I do declare to you here present, and to the whole world, that I go out of the world as innocent, and as free from any guilt of these things laid to my charge in this matter, as I came into the world from my mother's womb." So Thomas Whitebread.

"I do here declare in the presence of Almighty God, and the whole court of heaven and this numerous assembly, that as I ever hope (by the merits and passion of my sweet Saviour) for eternal bliss. I am as innocent as the child unborn of any thing laid to my charge, and for which I am here to die." So William Harcourt.

"I do solemnly swear, protest, and vow by all that is sacred in heaven, and on earth, as I hope to see the face of God in glory, that I am as innocent as the child unborn of those treasonable crimes which Mr. O. and Mr. B. charge me withal." So Jo. Gavan.

"I call God to witness, that I was never in my whole life at any consult where any proposal was made, or resolve taken, or signed for taking away the life of our dread sovereign. [I am as free from the treason I am accused of, as the child unborn] I vow to God as I hope for salvation, &c." So Anthony Turner.

"I do declare before God and the whole world, and call God to witness, that what I say is true, that I am as innocent of what is laid to my charge of plotting the king's death, as the child unborn. [As I hope for mercy at the hands of God, before whom I must shortly appear, and give an account of all my actions] I do again declare, that what I have said is most true." So John Fenwick.

These are modest oaths; they might have advanced many strains higher, and outdone P. Garnet, who swore in such a tone, as well might made his judges tremble; and they might have repeated the most horrid oaths a hundred times for confirmation of what they know to be most false; yet by this artifice they might have done this without either lie or perjury, and with no less innocence "than the child in the mother's womb." Seriously such words in circumstances, would have been very significant from men whose principles allow of nothing but truth and sincerity; but from those whose doctrine bids defiance to both, they signify little, besides a warning to take heed lest we be deluded.

They that believe they may speak what is false in the sense of all that hear them, without either lie, or sin great or small; and also, that when they may speak what is false lawfully, they may as lawfully swear it, what credit can be given to their oaths, more than to their words? And what regard can be due to the words of those who declare it lawful to speak one thing and think another? and no less lawful when they are dying, than at any other time? Those that would be believed against such evi-

dence as convicted these men, had need be persons of more than ordinary credit: But men of their principles are quite broke as to this, their credit is utterly blasted by their doctrine. They that count it lawful to deceive us, will do it when they are concerned. And they declare it as lawful to deceive us by equivocating at the point of death, as any time else; and as lawful to delude us with solemn oaths, as any other words; and have thereby taught us, that if we will not be deceived, we must not, as the case stands, believe a Jesuit, whether he says or swears, no not when he is dying.

I know not what use knights of the post may make of their doctrine; it is so very favourable to their practice, and assures it of so much secrecy and innocency, as no other doctrine in the world besides; and so may be a shrewd temptation to them to turn Roman catholics. If they can but secure their ears, their consciences by this popish device may be safe enough: for they may swear that which is false when occasion serves, and yet persuade themselves they swear nothing but what is true; and so after perjuries continued for many years, they may be "as innocent as when they were born."

Hereby it appears that the witnesses from St. Omers had no very hard task imposed upon them by their superiors: For if they had given their testimony upon oath, as they were very ready to do; and if what they testified were false, and they knew it to be so, yet by this artifice they had testified nothing but what was true; and so though they were false witnesses, yet no less innocent for all that, than any infants. Though it was as certain and evident that Mr. O. was at a consult at London, as that these gentlemen were in court at the trial; yet by this device, they might truly and innocently say and swear, that he was at the same time at St. Omers. Such is the virtue of this admirable art, that it makes that which is lying and perjury, both in itself, and in the sense of all the world besides, to be a most innocent and sinless thing, and no worse than a very true testimony. But suppose these innocent children (as J. F. calls them) were not capable of this subtilty, yet they might have come off like innocence another way, and yet have done the business which their superiors enjoined them; for they came only to secure these Jesuits, and other persons of quality, by their testimony; and if they should have given a false testimony on their behalf, there had been no great harm, since a false testimony for another is no crime but only that which is false and against him too, which is plain by the words of the commandment, Thou shalt not bear false witness against thy neighbour; it is no prohibition to bear false witness for him, as is gravely observed by one of the most eminent divines in the council of Trent, and confessor to Charles the fifth, who on this account will have "a false testimony excused when it is to hinder one from doing of injury." And another of

their greater divines (*u*) "will not have him condemned, who to defend himself, makes use of witnesses, offering themselves freely to testify for him by false oaths." (*w*)

And for their further encouragement, their doctors determine, that in way of defence, and to weaken the credit of such as accuse them, they may without mortal guilt charge them with false crimes: (*x*) So Bannez, "It is only a venial fault to charge a false crime upon a witness unduly accusing us, when such a charge may serve to refute his testimony (*y*)."

To the same purpose Ledesma, Orella, besides many more in Diana, who says, "This opinion is probable enough (*z*)," (and that which is probable, is by their principles, lawful in practice, though it has no probability, but what the opinion of some grave doctors can give it). And Caramuell tells us, there are more than twenty doctors who assert, that "he who claps a false testimony upon any in his own defence, sins not mortally, (*a*)."

We need not wonder therefore, that such endeavours have been used to procure false testimonies, and forge odious crimes to discredit the king's witnesses; nor to hear T. W. and J. G. charge them with false oaths and false accusations, when they knew that they were true; for if it be but a venial fault to do this, to secure the reputation of a particular person; it will be scarcely accounted any fault at all, when the honour of whole societies and religious orders, and of the Popish religion itself, is so much concerned, and stands in so great need of such a vindication.

But the argument whereby they would justify this doctrine is more remarkable; "Why will this be a sin," says my author, "if it be lawful in defence of one's reputation to kill another (*b*);" which is maintained by Sotus,

(*u*) "*Testimonium falsum in favorem proximi non est mortale, neque adeo quando dicitur ut idem impediatur injuriam facere, quoniam neque hoc est contra ipsum.*" Præceptum Exod. 20. "*sub illa forma constituitur, non loqueris contra proximum tuum falsum testimonium,*" Soto de Justitia et Jure, lib. 5. quest. 7. art. 4.

(*w*) "*Victoriæ visum est non esse dammandum de mortali falsitate, qui ut suam tueatur innocentiam, utitur testibusse ultro offerentibus ad testificandum falsum jurando,*" vid. Lopez. instruc. pars 2. chap. 44. p. 264.

(*x*) Guimen. opusc. p. 176.

(*y*) "*Solum esse peccatum veniale mendacii objicere crimen falsum testi iniquo, quando talis objectio protest ad refutandum ejus testimonium.*" Bannez, 2, 2, quest. 70, artic. 3, dub. 2.

(*z*) Part. 9, tractat. 9, resolut. 43.

(*a*) Theologia fundament. num. 1151, "*Viginti et plures doctores asserunt, eum qui imponit falsum testimonium alicui, ut suam justitiam et honorem defendat, non peccare mortaliter.*"

(*b*) Guimen. ibid. p. 177.

Bannez, Salonus, Arragon and others, with whom Diana concurs, affirming it to be their common doctrine. Amicus (c) the Jesuit thus delivers it :

"It will be lawful for a clergyman or a religious person, to kill him who threatens to charge him or his religion with great crimes, when there is no other way of defence, as there seems to be none, if the accuser be ready to declare those crimes to great persons, unless he be killed."

He that observes this, will not wonder if they did not scruple to murder sir E. Godfrey, or that some priests were so forward to be his executioners; nay, it threatens those who are no way so dangerous to them and their religion, as his discovery was like to prove, if they had not prevented it by this their sinless expedient, a most barbarous murder. However, Guimenius (d) produces very many doctors in justification of it; and Caramuel defends it as not only the doctrine of Amicus, but of Peter Navarr, Sairus, Gordonius, Sancius, &c. and as a consequence of it, resolves another case thus: If a religious man, yielding to the frailty of the flesh, do lie with a mean woman, who counting it an honour to have prostituted herself to so great a person, does divulge it, and so disparage him, he may on this account kill her (e).

So that no sorts of persons must escape with life, who have not a great regard of their honour, who both by their principles and practices, are the greatest dishonour to the Christian name, of any, that ever pretended to it.

But to proceed, M. Sertá concurring with Bannez, two doctors of great reputation amongst them, having declared it "lawful to kill him who goes to the judges to exhibit a false testimony," &c. a little after determines, "That the same will be lawful if one go to accuse one of a true, but secret crime, when by such accusation there is certain danger of death or disgrace." But he adds, "This is not to be publicly preached, because of the rudeness of the vulgar, as Soto advises; but after the fact, it may serve to quiet their consciences (f)," who have killed others upon such occasion; i. e. it may be made use of to keep them from repenting of their murders, persuading them that they are not sins to be repented of; they are lawful acts in the sense of the Roman doctors, or it may be meritorious, if they be heretics that are slain, and so they may be encouraged to repeat them as often as they see occasion. So that by their doctrine

(c) "*Licetum est clerico vel religioso calumniatorem, gravia crimina de se vel de sua religione spargere minantem, occidere, quando alius defendendi modus non suppetit.*" De Justitia tom. 5, disp. 3, 6. sect. 7, num. 118.

(d) Ibid. p. 191.

(e) Ubi supra.

(f) "*Idem erit si quis vadit ad me accusandum de crimine vero, sed occulto; ex cujus accusatione mihi certum periculum imminet mortis vel infamiae.*" Vid. ibid. p. 191.

it is no sin to kill all the witnesses that bring in any evidence concerning this horrid plot, though their testimony should but endanger the life or reputation of one particular person; what murders will they not then think lawful to secure so many of all ranks and qualities as are engaged in this hellish conspiracy? The providence of God is to be adored and admired, and to this it must be ascribed, that the king's witnesses are not all murdered; conscience doth not, cannot restrain them from attempting it; for their principles have left them no conscience at all, as to these and many other horrid things; but their ill success in the murder of sir E. Godfrey may be some discouragement, God in mercy so over-ruling it, that what they made account would quite stifle all discovery of the plot, is become a most clear and pregnant evidence of it, as my Lord Chief Justice Scroggs (to whom the nation and the Protestant religion will owe honour while they have a being) well observes. But that others may not think their lives secure, who never appear against them as public witnesses, they teach, that private aspersions are counted a sufficient ground to murder men, though they be Papists (for Protestants may be lawfully murdered without the least shadow of a crime, but their religion). "He who by whispers and detraction does endeavour to wrong or to blemish any one, if the infamy and disgrace cannot otherwise be avoided, it will be lawful to kill him," so Peter Navarr (g); to the same effect Gaspar Hurtado declares it "lawful to kill him, who by detraction may much endamage us, unless he be slain (h);" and Bannez adds, "That this is true, although the defect which the detractor makes known be true, if it be secret, because then the discovery of such a defect is a great injury (i)." And therefore F. W. might well send instructions for the murdering several divines who had detected the errors of their doctrine, to the disparagement of their church; why might not he proceed in this way of vindication, when they count it not only lawful, but very compendious and most effectual? However hereby we may see, that their emissaries from St. Omers (who have led us a little out of the path, though not out of the way) have done but little of what they might have done lawfully, if their instructions had led them to it; though in truth they need no other instructions, not only to make swearing, but other feats lawful, than the common writings of their

(g) "*Qui murmuratione et detractone injuriam maculamque inferre conatur, licebit, si aliter infamiam et dedecus fugere non potest, occidere.*" De Restit. l. 2, c. 3, num. 371 and 376.

(h) "*Licetum esse occidere eum qui detractationibus nititur grave damnum inferre, nisi occidatur.*" De Justit. Disp. l. 1, diff. 11.

(i) "*Id esse verum quamvis defectus qui detractatione publicatur, sit verus, si occultus, quia etiam tunc eum defectum pandendo fit gravis injuria.*" Vid. Guimenium ubi supra.

doctors. Let us now again come closer to our Jesuits.

Thirdly, they may use such mental reserves or equivocations, when they are urged by others not to use any, or when themselves profess and swear, that they use none. "So often as good cause occurs for which we may use ambiguous words or mental restrictions, the use of it is lawful, although he that interrogates do urge, that you will speak without ambiguity or restriction (k)," so Peter St. Joseph. "When one interrogates unreasonably by excluding equivocation, he that is interrogated may use equivocation, by adding some particle in his mind, by which the oath may be made true (l)," so Bonacina and others in him. "As often as it is lawful in his own defence to use any equivocations, it will be also lawful, though he that interrogates do urge that equivocation be excluded," so Sanchez (m), alledging for it Sotus and Arragon; and a little after he adds, "The same I affirm for the same reason, how much soever the judge urges who interrogates unreasonably, so far as to make the examinant swear, that he doth not make use of equivocations, and that he intends that which he saith without any equivocation. For he may also swear, understanding secretly that he doth it, as far as he is obliged to speak clearly, and expound himself, or by forming some other thought, which may make his answer true." F. Parsons speaks fully in his treatise of Equivocations, approved by Garnet provincial of the Jesuits and Blackwell the arch-priest * "If your incompetent judge shall further ask, whether you do not equivocate, you may answer no, but with another equivocation; if again suspecting you, he urges, whether this third time you do not equivocate, then the third time also say no, but with another secret equivocation, and so as often as he shall ask the like, likewise by equivocating say you

(k) "Quotis gravis causa occurrit, ob quam licet uti verbis ambiguis, vel mentali restrictione, ejusmodi usum esse licitum, etsi interrogans urgeat, ut sine amphibologia aut restrictione loquaris." De secund. præcept. art. 1.

(l) Henriques, Arragon, Sanchez, et alii. Tom. 2, disp. 4, quæst. 1, punc. 12, num. 5.

(m) "Quare idem sentio ob eandem rationem, quantumcunque reduplicet iniquus interrogator, ut juret se nullâ æquivocatione uti, et absque omni prorsus æquivocatione id intelligere. Adhuc enim jurare potest intelligendo ita ut planè debeat loqui et explicare; vel aliud mente concipiendo quo veram id reddatur. Op. mor. lib. 3, cap. 6, num. 45, p. 32.

* Cum respondes incompetenti judici per æquivocationem, si ulterius petat utrum æquivocas an non, respondebis non, sed cum alia æquivocatione; si adhuc suspicans te æquivocare, urgeat an non hac ultimâ vice æquivoces? responde non, sed cum alia secreta æquivocatione; et sic toties quoties idem vel simile à te petet, responde toties æquivocando, Barnes de æquivocat. pag. 174.

do not equivocate:" To this purpose his words are represented by (n) divers, and particularly by Dr. Bernes a Benedictine, who says, That by Parsons doctrine; "way being once given to equivocating, you may without end in infinitum equivocate by speaking false, and swearing false.(o)" But hear this great doctor once more with the approbation of the greatest popish divines then in England: "For further direction of the party examined, let him admit the oath with a secret intention of equivocation, and if he be more urged to swear without equivocating, let him swear that also, (viz. that he doth not equivocate) but with the aforesaid intention of equivocation."(p) The Jesuits in their speeches seem very much concerned, that they may be believed; but being conscious, that their doctrine of equivocation has justly bereaved them of all credit with those that are acquainted with it, they thought it necessary here to disclaim it with oaths and protestations; and so to give as much assurance, as those whose credit is so desperately cracked, can give, that they used no equivocation; Two of the five expressly swear it; "And I do moreover declare, that this is the true and plain sense of my soul in the sight of him who knows the secret of my heart, and as I hope to see his blessed face, without any equivocation, or mental reservation;" so T. W. "And that you may be assured, that what I say is true, I do in the like manner protest and swear, as I hope to see the face of God in glory, that I do not, in what I say unto you, make use of any equivocation or mental reservation," so J. G. They affirm, that they did never design nor contrive the death of his majesty, and I am confident it was as much their design to gain credit herein, as ever any thing was since they were designers; and therefore they swear it too; ay, but they know that the world understands by their common doctrine, that they judge it lawful to equivocate in solemn oaths, and if they do equivocate, in what terms soever their oaths be delivered, they swear quite another thing than their words and expressions do import, or those that heard them do understand, and so if we believe them, we are merely cheated; for what they speak, is not that they swear, though those that hear them take it to be so; but it is that which is spoken, together with something secret in the mind, added to it undiscernibly, whereby it becomes vastly different from what is exprest, or contrary to it; so that when we judging only by their words, do think, that they swear they had no intent to kill the king, that which they swear in their own sense may be their inten-

(n) Dr. Morton of equivocation, p. 99. antilog. p. 13.

(o) At verò, ut docet Parsonius, tractatu de æquivocatione, semel data causa æquivocandi potes in infinitum falsum dicendo æquivocate ac adeò pejerare. Ibid.

(p) Treatise of Equivocations; cap. 10. in Morton, ubi supra.

tion to kill him: So that there can no credit be given to their words or oaths, unless they can secure us that they do not equivocate. To secure us of this, they swear they do not equivocate; ay, but their writings, and those particularly which were calculated for them in such circumstances, assure us, that by their doctrine they may lawfully equivocate when they swear that they do not so; and that they may use equivocation when they are swearing against it; and that how often soever a man swears, he will use no equivocation; yet so often he may lawfully equivocate in swearing it. Thus their doctrine plainly bids us despair that we can ever be secured from their equivocating, and so long as we cannot be herein secured, we can have no ground to believe either their words or oaths; and if we will believe without ground, especially when we have just cause to think they have a design upon us, as unquestionably they had in those speeches, we shall in plain English shew ourselves no better than fools, and such as herein neither exercise true charity nor common reason.

Fourthly, By their doctrine they may lawfully use such mental reserve or equivocation, which in their account makes their speaking or swearing falsely to be innocent, either without any reasonable cause, or upon a slender occasion, much more when they apprehend weighty reason for it. Filliucius (*q*) enquires, "What sin it is to make use of equivocation without any reasonable cause?" And concludes that in rigour it is no lye, nor any perjury. F. Garnett when prisoner in the Tower, being required to declare his Judgment concerning this point, gave it in writing, and it is yet kept upon record; "Concerning equivocation, this is my opinion—(*r*) As often as there is occasion for necessary defence, or for avoiding some injury or damage, or obtaining some good, without the peril of any man, then equivocation is lawful." A man, says Diana, (*s*) may swear what is simply false, adding something in his mind to make it true, as often as there is just cause; now a just cause may be necessity, or profit, in respect of body, honour, or estate. "There is just cause," says Sanchez, (*t*) "for using equivocation, whenever it is necessary or profitable for the securing of bodily safety, or honour or outward enjoyments, &c." It is not unlawful, says Bonacina, (*u*) to equivocate as often as any

(*q*) Dico secunde probabilius videri non esse mendacium, nec perjurium, Mor. Tom. 2. Tract. 25, cap. 11, n. 330, p. 204.

(*r*) Casaub. Epist. ad Front. Duc. p. 197, where he observes the words, without peril, revera non nisi ad speciem adjiciuntur.

(*s*) Potest aliquis jurare simpliciter falsum addendo aliquid, &c. part. 3, tract. 6, resol. 30.

(*t*) Causa vero justa utendi his amphibologis quoties ait necessarium aut utile est ad salutem corporis, honorem, res familiares tuenda, &c. Op. Mor. lib. 3, cap. 6, n. 19.

(*u*) Ex quo sequitur non esse illicitum uti verbis amphibologicis, addendo restrictionem

inconvenience or injury is like to befall us, by speaking plainly. Or as they express it more generally, when a man is concerned to keep something secret; so Toledo, (*x*) equivocation may be used, especially when it is expedient to conceal a thing: So Sanchez, (*y*) alledging for it, Sylvester, Sotus, Ledesma, Navarr.

Now no person can be more highly concerned to keep a thing secret, than these men to conceal the plot; both for the dangerous consequences of their discovering it, and the great advantages they might expect by concealment; by insisting on their own innocence, and asserting it even unto death, they might expect vast advantages. The plot cannot be more effectually promoted, than by making us believe there is none; and it will hardly be believed that there is any conspiracy of this nature, wherein there is no Jesuit; and it may be concluded there is no Jesuit in it, if the principles of the society (such as these were) had no knowledge of it. Their denying all tends to make all, before taken for granted, to be again called in question, and to encourage those who are still carrying on the design to proceed vigorously, since they may still work under-ground, and not be discovered, no not by those that suffer for it. Also to make some weak-minded Protestants stagger who hear the confident words of these dying priests, but are not acquainted with their fraudulent arts, nor suspect any depth of Satan in so smooth language, and will hardly believe (knowing what their own religion teaches) that any Christian durst go out of the world with false oaths in his mouth; or that there can be any device, which will make such a horrid thing to be innocent. It tends also to weaken the credit of the witnesses, and disparage the justice of the nation; and occasion such alteration in the ministers thereof, as may be more for the security of the conspirators. It may also allay the spirit of the nation roused and appearing in some heat, against those who were before apprehended to be the contrivers of its utter ruin. It may also incense foreign princes both against us, and innocent Protestants under them, for proceeding against priests or papists as such, without any other crime, but what is pretended. In fine, hereby they might expect to die as Martyrs in the account of Papists, and as innocent persons in the judgment of others; whereas, if they had confessed all they were conscious to, it is like they might have been rather looked on as monsters, or incarnate devils. Such advantage they might expect, and more they might fancy than I can give account of, by defending their innocency to the last breath. But on the

aliquam in mente retentam, quoties aliquid incommodi vel injuriæ nobis impendit, loquendo ad mentem interrogantis, Tom. 2, disp. 4, quest. 1, punct. 12, n. 4.

(*x*) Potes nunc uni æquivocatione maxime cum rem celare expedit, lib. 4, summæ, cap. 21, 1, 9. (*y*) Ubi supra.

other hand, if they had confessed what they were charged with, they had gone near to have broke the neck of their own design; which seems dearer to them than all their concerns; and exposed the hopefulest plot that ever the society was big with, for the utter extirpation of the Protestants, and their religion, to apparent hazard of miscarrying. They had endangered their whole party engaged with them; the lords in the Tower, and other persons of eminency had been hereby prejudged, and in a manner half condemned before their trial. They had quite silenced those, who have yet the confidence to question the evidence of the king's witnesses. They had encouraged other of the conspirators to follow their leaders herein, and confess what they knew, and so a full discovery had been made of the plot; it had been quite dissected, and all the horrid wickedness in the bowels of it exposed to public view, and thereby popery itself in danger to be rendered odious to the world, and renounced by those that love the christian name, as utterly repugnant and most reproachful to christianity, and to be abhorred by mankind, as that which bids defiance to humanity itself. In short they had gone near hereby to have spoiled an expected martyrdom, if they had confessed themselves criminals; or at least to stain the glory of it, as F. Garnet did by confessing something, though no more that what was clearly proved against him, being not altogether so impudent as his successors, to out-face all evidence.

Now upon far less accounts than these, equivocation in words or oaths is in the judgment of their best casuists lawful at any time, the hour of death not excepted. Nor will it be any sin by the help of this art, to say or swear what is simply false, when there is occasion. Nay they count it not only lawful, but necessary in less urgent cases than this before us. And can any imagine our Jesuits to be so silly, so unreasonably scrupulous as not to venture on a few innocent oaths in the prospect of such advantages on one hand, and such dangers on the other hand, as did not only invite, but inforce them to it, and made it not only lawful, but necessary? Would they not have been decried by their own party as fools and dastards, if they had not stood it out to the last, since those criminals are so accounted by them, who having denied the crimes they are guilty of at trial, yet confess all at execution? When it had been the business of so many years, when they had been at so great charge, and run so many hazards to advance an heroic design, would they let it fall rather than support it by lying and swearing a little, when in the judgment of their best doctors they might lawfully do both? What though it could not be done without false oaths, they knew very well they can easily make them true, by a sly, but harmless trick. There is not the greatest lie nor the falsest oath that ever was heard, but if it were in the mouth of a Jesuit, with one secret cast of his mind, he could make it as true as the gospel. Might not their

zealots have accused them as traitors to the grand design and the Catholic interest, so much concerned in it, if they had exposed all their concerns to hazard by an open and free confession; when as they had a way to deny and forswear all that they knew themselves, or others were guilty of, without the least sin in the world? Instruct but the greatest malefactors in this art, and assure them that they may use it without sin, without any danger to their souls, and if ever you hear of any confession of crimes from them at the gallows more than from these Fathers, it will be a great wonder.

But it may be said, These persons that suffered were christians and teachers of others, and not without some apprehensions of death and judgment; and so it will be uncharitable to think, that they would so little regard their souls, as not by some confession to disburden their consciences, but pass into eternity without the least touch of repentance, if they had been guilty of the horrid crimes they stand charged with. I answer, The Papists have found out other rules for the ordering of themselves in life and death too, than the gospel prescribes and good christians will observe. But if they had been better christians than they are, they would have done no better, unless they had been of another judgment. For how can it be expected, that they should particularly confess themselves guilty of any crimes, when they did not think any thing they died for, to be a crime? What they are charged with may be reduced to three heads, a design to introduce popery, to massacre or destroy the Protestants of these kingdoms, and to kill the king. Now in their judgment, if we may discern it by their doctrine, no one of these is a sin. And can you wonder that they died impenitent, when they saw nothing to be repented of? (1.) Could they count it a sin to restore the Popish religion in the three kingdoms; and establish it; by advancing a prince to the throne, who would count it his glory utterly to extinguish what they count heresy, both in these nations and other parts of the world? No sure, they look upon this as an heroic, a glorious design, more fit for a triumph than any remorse, and at the furthest distance from any thing criminal. (2.) Do they count it a sin to destroy and root out all whom they count Heretics, as they do count all those many hundred thousands in these three nations? This looks like a crime prodigiously bloody and barbarous; but this is so far from being a sin with them, that it is a necessary duty, and as much so as what God himself commands. For proof of this, I shall not alledge the opinion of particular doctors, but that which is of more weight and authority with them than hundreds of such testimonies; and that is a decree of a general council, the most numerous of any we meet with, viz. that of Lateran under Innocent the third. There* all secular lords and princes,

* Vid. Crab, tom. 2, Concil. p. 948.

higher and lower, are enjoined to root out all Heretics out of their territories; and if they neglect it, their dominions are to be seized on by Catholics, who exterminating the Heretics shall possess them without controul, and preserve them in the purity of the faith. This is one of those decrees, how sanguinary soever it be, which they will have all Catholics high and low to observe and obey as the precepts of God and Divine Constitutions. And they are not excused from this bloody obedience, but for want of power to execute it with safety to themselves, as Bellarmine (a) and others declare. And now at last, after so many years patience perforce, they had power enough in their prospect. An army of 40 or 50,000 armed men ready to be levied, under officers whom the pope thought worthy of commissions for that service, backed also with Catholic assistance from abroad; might be thought sufficient to execute this merciful canon effectually. And as obedience herein is necessary, and such as in conscience Roman Catholics cannot decline; so it is meritorious (and how far is that from being sinful?) The reward of their merit who will engage thoroughly in this blessed work, for the utter exterminating of Heretics (Protestants) every where, is no less than pardon of all sins, and a greater measure of glory in Heaven. So that our papists may not only skip clear over purgatory, and jump up into Heaven immediately, but obtain a more glorious crown there, than others; by doing such barbarous execution upon Protestants. But this you may find more insisted on (b) elsewhere. (3.) Do they think it a sin to kill the king? They do not, they cannot think so, if they understand and believe their own doctrine. Their doctors assure them, it is no sin to kill a tyrant (c); and they will have our king, and others in his circumstances to be tyrants one way or other, either for want of just title, or upon the account of misgovernment, if not both ways.

When they deny him to have any title, as they always do upon supposition of the pope's deposing him, and sometimes without respect to any formal deposition, then their common doctrine carries it clear, and with a strong current, any private person may lawfully kill him: (d) It is asserted, that a tyrant, on the account of title, may be slain by any private

(a) Bellarmin. de Laicis, l. 3, cap. 22, pag. 1319. Bannez in 22. Thom. quæst. 12, artit. 2. Boucher. lib. de justa abdicat. Henric. 3, pag. 278.

(b) Practical Divinity of the Papists, cap. 7, sect. 5, pag. 206.

(c) "Tyrannum occidere honestum est, quod cuivis impunè facere permittitur, quod ex communi consensu dico." Dr. Boucher the Jesuit, ubi suprâ, pag. 362.

(d) "Nam asseritur hunc tyrannum quoad titulum, interfici posse à quacunque privata persona." Suarez defens. fid. l. 6. cap. 4, num. 7.

person; so Aquinas, whom multitudes of their doctors follow: my author names near twenty a little before, many of them Jesuits.

If they grant that he ever had any good title to the crown (which some of them dare question and deny too in terms too intolerable to be mentioned) yet they will have him a tyrant on the account of misgovernment: for so (as they teach) is every heretical prince. Suarez describing these kind of tyrants, concludes thus: "Amongst Christians that prince is most of all to be reckoned amongst this sort of tyrants, who induces his subjects into heresy, or other kind of apostasy, or public schism;" (e) and others of them express themselves to the same purpose. Now of the killing of such a one thus this great Jesuit determines after Soto (f): "A king who is a tyrant in respect of misgovernment, may not be killed by whom you will; but after sentence is once passed, any one may be made his executioner (g)." After sentence is passed they say, but what kind of sentence they express not. That he may be lawfully killed by a private hand; they think it requisite that he be first deprived, and that must be done by sentence of the pope. But many of them determine, that when the crime is notorious (for example, when a prince is notoriously known to be a heretic) which is our case, there is no need of a declaratory sentence; the pope's constructive will, though he express it not, will serve instead of such a sentence, having the full power and virtue of it. So that when it may be supposed, that it is his holiness will to have a prince excommunicated or deposed (as it must be always presumed in case of notorious heresy) though he declare it not in any formal way, yet it is as good to all effects and

(e) "Et inter Christianos maximè est in hoc ordine (viz. tyrannorum) numerandus Princeps, qui subditos suos in hæresin, vel aliud apostasiæ genus, vel publicum schisma inducit." Ubi suprâ, num. 1. So Reynolds: "Facile constat cum qui quancunque tuetur hæresin apud Christianos, non minùs propriè perfectèq; tyrannum effici; quàm qui apud Philosophos sprete civitatum conservatione, omnia in Republica stupris, rapinis, et hominum cædibus implet." Rosæus, pag. 157. Masconius, tenens regnum contra formam juris, et mentem Papæ, dicitur Tyrannus, De Imper. Reg. pars 1, cap. 2.

(f) Lib. 5, de Justit. quæst. 1, artic. 3.

(g) Licèt Rex in solo regimine tyrannus, non possit à quolibet interfici; latâ verò sententiâ quisque potest institui executionis minister. Suarez ubi suprâ, num. 18.

Emanuel Sa verb. Tyr. n. 2. Tyrannicè gubernans justè acquisitum imperium, non potest spoliari sine publico jndicio: latâ verò sententiâ potest quisque fieri executor. And this Victorellus confirms there by the concurrent judgment of Valentia, Aquinas, Soto, Salonijs, Bannez, Sylvester, Tolet, Aragon, pag. 678.

purposes as a declaratory sentence of excommunication or deposition. Banner a great doctor in their schools tells us, "This is the judgment of Felinus, and Cajetan, and the common doctrine of Aquinas's followers," (h) that subjects may shake off all allegiance to their prince, even "before the sentence declaratory of the judge;" and tells us, they prove it by what is now alledged, because "in this case the constructive will of the pope has always the force of a sentence." The Jesuits agree herein, if we may believe Father Parsons, who says, "It is universally concluded both by divines and lawyers, that every heretical prince is utterly deprived of all power and dignity, both by the law of God and man, and this before the sentence of the pope." (i) Their great Panormitan laid the ground of this conclusion long before, who determines, "That where a crime is notorious, there is no need of a declaratory sentence." (k) So that by their common doctrine, our king, (or any prince whose heresy is notorious) may be, or is deprived (and consequently may be lawfully killed by any one) before the pope has excommunicated him by name, or deprived him by any public declaratory sentence. And their practice is answerable. The wisdom of the Roman Court will have it so ordered, when the pope is in a capacity to make an open attempt upon a supposed heretical prince by force of arms, then he publishes a declaratory sentence, as he did against queen Elizabeth before the Spanish Invasion in 1588; but when a private murder is designed, it is not advisable to proceed so openly; the circumstances of the attempt require secrecy: and so in this case, either a sentence not published, or the presumptive will of the pope, or the general excommunication thundered against all heretical princes and persons every Maunday-Thursday, will be enough; and Guy Fawks was not much out, when he alledged that as a sufficient warrant to blow up both king and parliament.

But they have yet another way (though less taken notice of) to leave those whom they count heretical kings, without any title to their

(h) "Nam in casu posito adest semper voluntas interpretativa Pontificis—sed hæc voluntas obtinet vim sententiæ." In. 2. 2. quæst. 12. artic. 2. conclus. 2.

(i) Philopater sect. 2, p. 109. "Hinc etiam infert universa theologorum et jurisconsultorum Ecclesiasticorum Schola, et est certum, et de fide, quemcunque Principem Christianum, si à Religione Catholica manifesto deflexerit, et alios avocare voluerit; excidere statim omni potestate et dignitate, ex ipsa vi Juris tum Divini tum Humani, hocque ante dictam sententiam Supremi Pastoris ac Judicis contra ipsum prolatam—atque hæc certa, definita et indubitata doctissimorum virorum sententia est."

(k) "Cum est crimen notorium, non est opus declaratione sententiæ excommunicationis. Cap. cum in homine, extra de Judiciis."

kingdoms; and so make them tyrants and usurpers, liable to be killed by any hand lawfully, without any declaratory sentence of the pope. Suarez (a) having declared that a prince deposed by the pope, becomes *tyrannus sine titulo*; tells us, this is more clear in an heretical king. For he, as soon as ever he is tainted with heresy, "*ipso facto* loses some way his propriety and title to the kingdom." And that which he minces, their authors generally assert without restriction, That heretics from the first day that they are so, lose all title to what they possess, even before any judicial sentence. Sanchez (b) produces above forty doctors for this, and himself saith, It is exceeding probable. And Suarez (c) after he hath named many of their more ancient authors of this judgment, tells us, It is the common doctrine of their modern writers. So that by this doctrine, so common amongst them, an heretical prince is deprived of all title to the kingdom he possesses, the very first day that he is an heretic, without expecting the sentence of pope or other judge. And this they will have extended to an heretic's children to the second generation, though they prove catholics. For though this seem severe, and it was more favourably determined in the Code, exempting catholic children from the punishment incurred by their parents; yet in the new canon law (as Suarez (d) tells us) it is otherwise decreed. And catholic children are declared to have no title, if their progenitors lost it by heresy. For this being spiritual treason, the punishment must be proportionable, and reach both the criminal and his heirs. Thus for example, king James being in their account an heretic, he lost all title to these crowns, both for himself and his children, and childrens children, whether they be Roman catholics or no. So that the duke of York can have no title, unless the pope will take off the attainder, and then revive the title for him, which hath been by their rules extinct in this royal family from generation to generation. This is the condition of protestants, and all whom they count heretics, they lose all propriety and title to their estates and possessions, for them and their heirs to the second generation: and princes are to expect no more favour herein than others. "For," say they, "in the crime of heresy, no regard is had of any special state, of any personal dignity or nobility: but in favour of the faith, noble and ignoble for heresy are equally punished." So Roias, Felinus, Carerius, Simancha, and Suarez (f) after them, who adds: "This is established upon the best reason; for in matters of faith, and such as pertain to the salvation of souls, there is no distinction betwixt Jew and Gentile, bond or free," as Paul to the Romans and to Philemon. Nay it proceeds with more force against kings.

(a) Defens. Fid. lib. 6. cap. 4. num. 14.

(b) Op. Mor. lib. 2. cap. 22. num. 2.

(c) De Fid. spe et disp. 22. s. 3. num. 1.

(d) Ibid. sect. 1. num. 3. pag. 775.

(f) Ubi supra, sect. 6. num. 3. pag. 799.

"For heretical princes," saith Simancha," (g) deserve more grievous punishment than private men." Therefore they who will have all other supposed heretics to lose all title to what they possess, before any sentence past, must in all reason conclude this of princes, being equally comprehended under their common law for confiscation. So that by this doctrine the kingdom of an heretical prince is confiscated, and his right to it extinct by his heresy, as soon as ever he is infected with it, before and without any sentence past against him: and if he or his children to the second generation do possess it, they invade what they have no right to, they are mere usurpers, and liable as tyrants *sine titulo* to be killed by a private hand; any one may be made their executioner.

Hereby it further appears with what truth J. G. asserts in the words of a dying man, that none of the society, besides Mariana, holds it lawful "for a private person to kill a king, although a heathen, or a pagan, or a tyrant." It is hereby evident, That not only the Jesuits, but other orders, will have it lawful for private persons to kill kings, when they can suppose them to be without title; but then they call those tyrants whom we count kings, and so they may kill all our kings successively, and yet swear (truly in their sense) that they never killed any king actually, nor ever designed or attempted to kill any one; because, forsooth, they assassinated none but tyrants, nor ever intended any other. And I do not doubt but if Mariana were alive, he would swear as readily as any other, that his book was not to defend or encourage the killing of any by private hands, save tyrants only. But then I question whether we can find any (excepting J. G. and excluding mental reserves) who will either swear or say, that there is any considerable difference betwixt Mariana, and the rest of the Jesuits, about the doctrine of king-killing. They are all for killing of tyrants by private persons; and he is for the killing of no other. But then both he and they are for the killing of heretical kings, for these they all count tyrants. But to proceed; upon this account their doctors say, That against such a prince no treason can be committed; for that is a violation of majesty, '*crimen læsæ majestatis*,' whereas in such a prince there is no true majesty. (l) And by the help of this, might our dying priests protest and swear, that they were guilty of no treason, but as clear as the child unborn, of any treasonable crimes, or of any plot against the king's most excellent majesty; and so they might all disclaim king-killing, or any design or contrivance of the king's death: For the doctors also declare, such a tyrant is not called prince or king; (m) and therefore if they should count it

a sin to kill other kings, yet not ours, not any heretical prince, not any whom the pope has deposed, or which is all one, declared heretic, either formally or virtually: For they are no kings in the Roman stile, but tyrants. (n) Further, by this we may discern, upon what account they may disclaim with oaths, as these priests here do, the use of all pardons, absolutions, dispensations, or indulgences: For there is no occasion for these, but upon supposition of some sin, whereas they did not judge any thing wherewith they were charged to be sinful. And in fine, if these detestable crimes were no sins in their judgment, who could expect they should make any confession? If such horrid enormities may be consistent with the greatest innocency, why not any other wickedness whatsoever? And therefore whatever they were guilty of, it is no wonder if they should all swear, as one of them does, that he is the most innocent man in the whole world. They that offer violence to kings opposing the faith, and die on this most holy account, they are not to be judged traitors to king or country, but Martyrs of Christ, and deserve not punishment of God, but eternal rewards in heaven, Reynolds Rosæus, p. 638.

To conclude I have great reason to be confident that these speeches were contrived for the promoting of their grand plot, upon which their hearts were so much set (their catholic interest being so deeply concerned in it) that the thoughts of death could not divert them. Their design in that was to destroy us and our religion, and in order thereto, by these specious words they would deceive us; knowing well, that they might ruin us more easily, more suddenly, more unavoidably, if they could persuade us that no such thing is intended. If they find us so weak, so facile as to believe some fraudulent expressions, against so much rational evidence, and thereby gain this point upon us, their work is in a manner done; and they will do more at their death by putting out our eyes, than they could do in all their life. To prevent this, I have endeavoured to clear up to others two things, which to me are as clear as the day, and will be so, I doubt not, to those, who duly consider the premisses. (1.) That by their doctrine, though they were as guilty as any malefactors that ever suffered, yet they might assert their innocency with all oaths and asseverations, and that truly and lawfully by the use of a secret reserve, or mental equivocation, which it will be no sin to use when they are dying, though then they protest that they use none. This is done in the three first pro-

venire hujusmodi tyrannum, et ideo decreta quæ dicunt non licere principem interficere, hunc tyrannum non comprehendere, ut videri potest in Gigante Tract. de crim. læs. Majest. quæst. 65. idem ibid.

(n) In Doctrina Hildebrandica, tyrannus audit, quavis legitimus Rex, qui à Pontifice fuerit excommunicatus, Casaub. ubi supra, pag. 163. vid supra.

(g) Instit. Cathol. tit. 28. sect. 12.

(l) Ideo etiam Doctores dicunt contra hunc Tyrannum non committi crimen læsæ Majestatis; quia in tali Tyranno nulla est vera Majestas. Suarez ubi supra n. 7.

(m) Dicunt etiam, nomine Principis non

positions ; and it is so plain in their writings, that I never expect any priests or Jesuits in England will disprove it. (2.) That they were as much concerned to maintain their pretended innocency, how guilty soever they were indeed ; as they were for promoting their present horrid plot or their Catholic interest depending on it : and this is manifest by the last proposition. Now this

being premised, let me only make this inquiry and I have done : whether any in reason, justice or charity, can against such evidence as the justice of the nation counted clear, pregnant and convincing, believe those, who thought they might very lawfully deceive us, when they were dying, and apprehended themselves most highly concerned to do it ?

The following Particulars relating to the Conduct before Execution of the preceding Conciets, on account of the Popish Plot, were published under the Title of

An Account of the Behaviour of the Fourteen late Popish Malefactors whilst in Newgate. And their Discourses with the Ordinary, viz. MESSRS. STALEY, COLEMAN, GROVE, IRELAND, PICKERING, GREEN, HILL, BERRY, WHITEBREAD, HARCOURT, FENWICK, GAWEN, TURNER, and LANGHORN. Also a Confutation of their Appeals, Courage, and Cheerfulness, at Execution. By Samuel Smith, Ordinary of Newgate, and Minister of the Gospel.

“ He who is first in his own cause, seems just ; but his neighbour comes, and searches him,” Prov. xviii. 17.

“ It is not probable, that such who will perjure themselves, to calumniate Protestants, should be capable of giving any real testimonies for themselves.”

It being desired of me by a worthy divine, that I should publish what I said to Staley, who was condemned for treasonable speeches : likewise my discourses with the other twelve Jesuitical and popish conspirators, before their being drawn out to their execution : I could not (though with some reluctancy at first) but grant him his request ; hoping that this narrative may be of public use and benefit to all, into whose hands it shall come ; to acquaint them with the truth of what I spake to them, by way of advice, to prepare them for their approaching death ; and that I may give some satisfaction, to such as are apt to be ; staggered in the belief of their abominable crimes, because they frequently avowed their innocency. Which satisfaction I shall perform in order as they suffered.

I. Mr. STALEY.

The first person executed, was Mr. Staley, who spoke treasonable words against his majesty, which expressly threatened to take away his sacred life. I did frequently, after the sentence of death was past on the said Staley, visit him in order to prepare him for his execution. In my first address to him, I told him, I came not to insult over him, but out of conscience to discharge the duty of my office : He

received me with great willingness, and said ; He had great terror upon his conscience for the guilt of his many and great sins : yet utterly denied the speaking of those words for which he stood condemned. I told him that the readiest way to be free from those terrors, was to make an ingenuous penitent acknowledgment ; and that for tongue-sins or secret heart-sins formerly indulged, God might justly desert him to ensnare himself by such treasonable words. He said, He never had any thought of mischief against the king's person. I replied, that words were the natural product of thoughts, and a frequent prologue to the most abominable actions. He persisted in denying, that he spoke any words tending to that sense ; but when I told him, that his friend, who was drinking with him, could, or had deposed upon oath, that he spoke those very words : He replied, Nay, if my friend will swear so much, it is probable I might (in the heat and extravagancy of passion) utter them, though they never were intended in my heart. He had great remorse for the sinfulness of his life, and expressed some particulars which I shall not mention. I told him, if he expected any settlement of true serenity in conscience, that he must not seek it in adhering to the Romish religion ; for false and loose principles can never produce solid and lasting comfort ; then I undertook to convince him from the sacred scriptures, of the many absurdities which are maintained by Popish doctors, that it is a presumption not to doubt of salvation, and yet that a person may merit it, which is utterly inconsistent ; for if any man doubt of his future happy estate, how can he merit it ? and if

he may merit it, what need he doubt, when by works of a self-righteousness, he can create a title, or may lay claim to eternal life? I judged it necessary, in order to the removing his terror in conscience, to inform him aright; that, although it were impossible to fulfil the covenant of works, or to attain any perfection in this life; yet there is a foundation of hope, for degenerate mankind as restored to the image of God by Christ; whose satisfaction to divine justice, is of infinite value and virtue: so that Christ being the only mediator by redemption, it is blasphemy, and the highest sacrilege to constitute or invoke any saint or angel as a mediator of intercession. For this is equivalent to Christ's infinite satisfaction, as grounding the right of his intercession, especially considering, that mediatory intercession is only the representing and pleading the merit of infinite satisfaction. Upon this, he expressed an assent to what I had affirmed, by bowing his head; and applying his hand to his breast, he said, Sir, go on. Then I unfolded the nature and necessity of faith and repentance in order to the justification of a sinner; how they were the conditions of the covenant of grace, so required of us, for pardon of sin, and eternal life; as that they could not be extracted out of the power of free-will in man, but were the sole purchase of Christ's free love, who by his spirit, infusing the principle of faith and repentance, doth regenerate, and actually reconcile a sinner to God; and so redeem, or set him free from the slavery of his corrupt will, which he cannot shake off by any improvement of natural reason, or moral resolutions. I stated also the difference betwixt true saving faith and repentance, from that which is false: And that the office of faith, is not only to rely on the mercy of God, and merits of Christ, but also to give back the whole man, in an hearty resignation, to the conduct and government of Christ's word and spirit in all things. That saving repentance was not an act of mere attrition, which only effects a legal consternation in conscience, from the apprehension of guilt, and divine wrath: but true repentance is evangelical, wrought deep in the heart by sound contrition for sin as sin, chiefly for offending the holy God: so that it is the result of an holy filial ingenuity, and is encouraged by the hope of mercy, attended with an hatred of all sin, and a studious resolution to walk in all holy obedience. Here I told him, what an unsound dangerous opinion that was of the Romish doctors, who maintain attrition only with the receipt of the Eucharist, and the sacrament of absolution at the very point of death to be a sufficient passport for a comfortable exit out of the world, or ticket to claim salvation: after this, and some other discourse, he thanked me for my advice, and said, he was much benefited, supported, and comforted thereby: And desired me, as frequently as I could, to renew my visits to him; so I promised I would, and then I prayed with him; and he was very intentive, and much affected with what I prayed.

When I came again, he complained, that his heart was not so thoroughly contrite for sin as he desired; that he was much perplexed that he had no more assurance of a future happy state. I stated the nature of true saving faith, that it was an adherence to free grace of God in Christ, for pardon and eternal life, joined with an obedient self-resignation; and where this was wrought, the soul-state was safe, though assurance of God's love might be wanting. For this was not an essential privilege, absolutely necessary to salvation, but only a peculiar favour given to strict walking christians; and that only at some set times, in great extremity and need of such hidden manna. That it was rather of the nature of a rational short sensation, than the ground of settled comfort; which is the result of an heroic strain of faith, to trust in God, when he seems to reject and slay us; and that the Lord doth more esteem this resolute dependency, in the midst of seeming contradictions, than the most multiplied acts of external worship. Upon this he was somewhat more serene in his mind: and I told him, that in praying and seeking the Lord more fervently, comfort would gradually be obtained.

The next day he distrusted his heart, as to the truth of his faith and repentance, which I told him, was a good sign that he was in a hopeful way of making his peace with God. That he must wait in believing that he should obtain comfort promised to the penitent. He desired me to pray with him, and for him; and to prepare to speak somewhat of the sufferings of Christ, when I should next visit him. Accordingly, from that text, "I am crucified with Christ," I treated of many parts of his bitter passion, and of his soul-agonies, inferring matter not only of comfort from thence, but also of instruction, for our imitation and conformity. I left him afterward in a frame more willing and fit to die: and coming to him on the very morning he was to suffer, he told me, that "now he had more comfort, and an hope of his future happy state: yet renouncing all opinion of worth in his own tears, prayers, and humiliation." He was solicitous, if the executioner should deal with him according to the strictness of the sentence, lest feeling any pain (if cut down, and ripped up alive) he should curse, or use any unchristian word: which rather than to do, said he, I would bite my tongue in pieces; for I dread sin now, more than death. I told him, that I hoped the manner of his execution would be mitigated; however, that God would prevent sin in him at the time of his suffering, because he was so anxious as to distrust himself, and cautious to avoid all unbecoming words or gestures. After some farther discourse, I prayed with him, and he was much pleased with my attendance about him; yet he spared me from going with him to the place of execution for some reasons. I cannot say how he declared himself there, because I was not present: but upon my whole observation of his behaviour in prison, I do

charitably judge, he was a real penitentiary. It was doubtful to some, whether he died in the Roman or Protestant religion; because, as I think, he did not at last declare himself either way: yet this I am sure of, that if he had solid and true comfort in dying, this could not proceed from such a sandy foundation as his old popish principles, but only from self-aborrancy in the sense of his great sinfulness, and the defectiveness of his best repentance and obedience, that he might build his hope on Christ, and his righteousness only, as the rock of eternal life.

II. MR. COLEMAN.

I come now to Coleman, of whom I can say very little, because he had an arrogant opinion of his own abilities; and out of an hope to be canonized for a saint, despised and rejected any assistance from me, either by discourse or prayer. I offered him both on the next day after the sentence of death passed upon him; but he returned me this answer (by the messenger I sent to him, to know if he would admit me) "That he had but a very short time to prepare himself for death, and would not be hindered in the loss of any part of it;" thanking me for my offer of visiting him, but desired me to forbear. I put a fair construction on the message brought me at the first, thinking he might be very busy at that time, about some extraordinary emergency, or indisposed to be visited; and therefore told the messenger, that I would attend on him on some other fit time. The officer told me, that Mr. Coleman would never admit me; and he inferred it from his manner of speaking that message which he sent by him; he observed his countenance and gestures in the delivery of it. So I totally desisted. Yet when he was brought down from his chamber in the Press-yard-side, to go to the sledge, I stayed him a little, saying, Mr. Coleman, you did not think well of admitting me, yet know, I have earnestly prayed that God would give you true and great repentance for your great crimes, stand not out in your denying of them. Some other words I used, to which he replied in short and quick tone, "Thank you, thank you." As I moved nearer with him towards the gate, he said, "Sir, I must beg your pardon." It being a strange word to drop from him, I asked him for what? He replied, "That I did not admit you; but truly, it was not in any contempt of your office; but when you sent to me, I was under some perplexed thoughts; and for other considerations, thought it not convenient." Then I told him, that I would pray for him as a dying man, which he took well, and so we parted.

III. MR. GROVE.

Mr. Grove was executed on Friday the 24th of January, 1678. I spake to him in the chapel these words (before he was carried down the stone-stairs unto the sledge:) Sir, I earnestly desire you, now that you are going to appear at the tribunal of Christ, that you

would clear your conscience and speak the truth, that you may die in peace: and I do exhort you, that you would beg of God great repentance for your great sins. He replied, "That he did understand his duty." Yet I persisted, to exhort him not to trust to the merits of any saint or angel, but wholly to go out of himself, not grounding any confidence of his salvation on any prayers, tears, nor the deepest humiliation of his own heart. That even cardinal Bellarmine said, when dying, "It was safest to rely wholly and solely on the all-sufficient merits of the blessed Jesus." Mr. Grove replied, "That Thomas à Kempis had said the same." To which I replied, Do you consider of it, and act accordingly: for you must not hazard your soul's eternal welfare by any presumptuous mixing of your own good works with Christ's infinite satisfaction and merits. For the Apostle St. Paul saith, "If justification be of works, it is altogether of works; but if of free grace, it is altogether of grace."

So I took leave of Mr. Grove, desiring him to consider well of what I had said, praying that the Lord would in much mercy look upon his soul to pardon him, and fit him for his approaching death. Mr. Grove seemed to take in good part what was said to him. After which, he was conducted down to the sledge.

IV. MR. IRELAND.

Mr. Ireland was executed on the same day with Mr. Grove, to whom I had not time to say more than these few words; viz. Sir, I do earnestly beg of God to grant you mercy and pardon for your great sins. Trust alone in the righteousness and merits of Christ Jesus: compose yourself in your passage, and fix your heart upon the Lord, till you expire. Which words Mr. Ireland seemed to take kindly from me: and so we took leave of each other.

Here I cannot forbear to give some account of Mr. Ireland's perverting of a woman who was burnt in Smithfield for clipping his majesty's coin. This seduction of the said woman from the Protestant Religion, was before Mr. Ireland was apprehended for the late conspiracy. An officer in Newgate did assure me, when Ireland was committed for the plot, that he was able to take his oath, that Ireland perverted that woman some time before; for he well knew him upon a second review, but knew him not to be a Papist or priest at first; for he was admitted to her as friend. Ireland's stratagem in turning the woman to become a Papist, was thus discovered. Early on the morning on which she was executed, I asked her, what hope she had of a future happy state? she huffed at me, telling me, "I need not trouble myself about her, for she was sure of her salvation." I wondered at her confidence, but suspected not the grounds of her malapertness.

After I had exhorted and prayed with her at the place of execution, and was taking my farewell of her; she entreated me to give her some time to pray for herself, which she did: in her

prayer she mixed these words, "Lord grant, that the offering up of my body to the flames may expiate the guilt of all my sins, and save my soul." I told her, when she had finished her prayer, that the foresaid expression smelt rank of Popery; and therefore asked what Religion she came to die in? She replied, "she was a Roman Catholic." I asked her, how long she had been such? She said, "that a good minister had told her, that if she died in the Protestant Religion, she was sure to be damned." And that he proved it by this scripture, "Thou art Peter, and upon this rock will I build my church." So that, he assured her, that the religion of the Romish Bishop, who was St. Peter's Successor, was the Rock there meant; and so there was no salvation to those who are separatists from that church, and the profession of it. I told her, that the priest had deceived her. For the Rock was not St. Peter's person, nor is verbal confession of Christ; for if so, where was the rock, and, what became of the Church, when St. Peter so shamefully denied his Lord thrice? But the only true Rock on which the Church is built, is the very person, offices and merits of Christ, the son of God, who was the object of St. Peter's Confession. She was attentive to what I said, and seemed somewhat sensible of her being deceived. Saying, "She was willing to be saved betwixt us both." But I told her, she must not halt betwixt two religions, so opposite to each other; and that it was very dangerous to die in the Roman persuasion. She told me, "She could not renounce it, in as much as the said priest had obliged her by the blessed sacrament, that she should never recant or depart from the Popish Religion, as the best and safest to die in." I convinced her with arguments to the contrary; yea, she herself was not credulous of their absurd affirming of the transubstantiation of the sacramental bread and wine, into the very body and blood of Christ: for she said, "She neither tasted any flesh or blood." She also declared, "That she had no good works of her own, which she durst trust to, as meritorious of heaven; but relied wholly and solely on Christ's Righteousness." Whereupon I told her, she denied the grand points of Popery; and therefore, was a Papist to get a pretended absolution or upon some design. But, fearing to die in the Romish opinions, she asked me, "If she should not be perjured, if she renounced them, having taken the sacrament, to persist in them?" I told her, that she must not cleave to an unlawful wicked oath; but beg repentance of God, that she so easily suffered herself to be seduced. I told her, that the Lord saith by the prophet, "That an oath must be taken in truth, righteousness, and judgment."

Now, she did not, neither could swear in truth, because it was to a false religion; nor in judgment, in wisdom and discretion, because she swore rashly and inconsiderately: therefore, this oath was void in its own nature; and it could not bind her, the matter of it being unlawful and wicked.

At last, being convinced of her error, she was willing to retract it: but I told her, that what she did, she must do willingly, and from a sincere penitent frame of heart. She said, "She could and would freely (out of conviction of her duty) renounce all Romish opinions and practices;" which she did openly, with an audible voice; affirming, That she died a true Protestant. So I took her by the hand, and prayed again with her, that God would pardon her former levity, and give her perseverance in the true faith, which she had so solemnly re-imbred.

This was the first discovery of proselyting condemned malefactors at Newgate: to prevent which seduction, captain Richardson, since this came to his knowledge, is very watchful; and gives all his officers a charge to suffer none to come to condemned persons, but only such whom they know to be Protestant-Divines; and that always, an officer be present to hear what passes in discourse.

V. Mr. PICKERING.

I had discourse with him before his execution; but he would not permit me to pray with him, only desired my prayers at home for him; which I promised him, and he thanked me. I was present at his execution, because he was hanged after three other ordinary malefactors. When he came out of the sledge into the cart, he had a great flushing in his face; I apprehended by his words and gesture, that he had elevated his artificial courage; or rather sunk himself into a sullenness, by taking cordial spirits: for he was unconcerned at the approach of his own death, and no way affected with his monstrous crime. With an impudent face, a lying tongue, and antic carriage, he denied what he was condemned for, and asserted his innocency. He was reproved by the sheriffs, for such impudent lying; having had a fair trial, and found guilty of the whole indictment charged upon him: yet so seared are the consciences of these grand traitors, and enemies to all order, and well-established government, as well as the true and pure religion, that they will hazard the eternal loss of their souls, as to a future happy state, rather than declare any remorse for their abominable designs and practices. Yea, they stick not to justify themselves, as if perjury could change the heinous nature of treason, and wash it into a perfect innocency.

Sir Richard How told Pickering, that he should have a considerable time to prepare for his instant death, if he would improve it well, and not misspend it in extravagant, and false pretences. He likewise called unto him, to put him in mind of praying for himself; alledging, that it was reported, that he was a priest, therefore he ought to be able to pray, in expressions, and with affections suitable to his present distress: Yet Pickering neither warned the people, to take heed of an ill life, nor confessed any sin to God, of which himself was guilty; but with a kind of rude smiling, denied himself to be a priest but only a religious brother. Sir Richard

asked him, if he were ashamed of his religion, or that the people should hear him pray? For some of his fraternity, executed before, only inutted a few private Ave-maryes, or other Popish prayers, to themselves. Then Pickering repeated the Lord's-Prayer, and the Apostolical-Creed; and said no more as to any religious concernments. Then the ordinary, being in the cart with him, exhorted him to express himself more fully and pathetically in prayer, suitable to the distress of a dying man, which he refused to do. Then I asked him, that I might pray for him, because he might be uncomposed or indisposed himself: But he said, that he did not matter it; he had rather I should let it alone. So after a strange, unbecoming, stupid, and sullen behaviour of himself, when he desired no longer time, his face was railed, and he was turned off: he hung about half an hour, and then was cut down and quartered.

VI. Mr. GREEN.

Green was one of the murderers of sir Edmundbury Godfrey. He was born in Ireland of a protestant father, (as himself said) but his mother being a papist and his father dying, she committed the son to his uncle (her brother) for education, in the popish religion. Green could neither read nor write, yet his uncle had so trained him up in the popish principles, that he was a fitter subject (when grown up) for popish priests to work upon, and make him an engine for their destructive practices. This appeared by their inveigling of him into the horrid murder of the said sir Edmund: Green had some time before been preferred to be chapel-keeper at Somerset-house. Hereupon the chief contrivers of that murder, took their opportunity to draw him in, to be an actor in that bloody tragedy. Green was very ready at hand for that purpose, and was the easier induced thereunto, because sir Edmund being one of his majesty's justices of the peace, was very active in discovering and committing popish priests to custody: his life was laid wait for several times, not only for the reason aforesaid, but chiefly because he had taken some examinations upon oath, concerning the late horrid popish conspiracy, which they thought (if sir Edmund were killed) would be lost, or not so valid in their credibility. But in this they were infatuated, for the murder of this worthy patriot confirmed the belief of the plot. The manner of contriving sir Edmund's death was thus. As he passed by Somerset-house, he was importuned by some of the complices in the murdering of him, to turn in at the gate, under pretence that there was a fray within the court; and that he being a justice of the peace, might (as he was bound) do a great good office in appeasing the scuffle. Sir Edmund went, in not mistrusting their design on him: But these cruel enemies to the Protestant religion, had no sooner got him into the back part of Somerset-house, but they jostled him into a private room, and there set upon him

with their fury. The narrative is in print, and too tedious to relate. Therefore in sum, as to Green's part, who acted in that bloody tragedy, it was proved upon oath, that he strangled sir Edmund; and farther acted, in conveying his dead body to the place where it was afterwards found. Green being condemned to be hanged for this barbarous murder, I proffered myself (as Ordinary) to visit, and fit him for his approaching death. He accepted of it, and I went to him several days, to make him sensible of so great a crime. He stiffly denied it, as also did Hill and Berry to the last. I urged Green with various arguments, to adore the sovereignty of divine providence, which had thus wonderfully brought to light such a secret mystery of iniquity, hardly to be paralleled, in any age. Yet Green was very obstinate, in standing out to deny, that he knew any thing of this murder more or less, which I told him proceeded from some or all of these reasons following; either because he had taken an oath of secrecy, or counted it no sin, but rather a meritorious act, to destroy such a grand heretic as sir Edmund was accounted. Or had received a popish absolution from the guilt of that murder, and so looked upon himself as innocent as the child unborn. Or would not confess that horrid crime, to decline casting a great reproach upon the popish party. Yet however, I did not cease for many days to exhort him to unburthen his conscience of this particular guilt. I aggravated in many particulars, the heinousness of the sin of murder, especially of this, committed with such perfidious and cruel circumstances. Yet no arguments prevailed with him to acknowledge it.

I found him ignorant in the principles of the christian faith; therefore I took the more pains to inform him of the danger of dying in the Romish persuasion, which is grossly opposite, by the mixture of many absurd traditions, to the saving fundamentals of christianity. He said, that he did not believe many points of popery; viz. The power of priestly absolution nor the merits of good works to claim salvation by: Nor that it was lawful to pray to any saint or angel: And that no sin was venial in its own nature, though it were never so small. I much wondered, that he should say, he believed not any of these popish points; and yet, that he should wear a crucifix at his girdle. I desired him, not to put any religion in looking on it, nor in kissing of it. He said he put no confidence of salvation in it; only, It was a remembrance of his blessed Saviour. I told him, that Christ had left no such, nor any other memorials of himself, but only in the scriptures of sacred truth, and in the sacraments: That it is the office of the holy spirit, to bring every truth necessary for salvation, to our remembrance: And that Christ, his offices and merits, were only to be believed in; and were sufficient to put us in mind of our duty, and to quicken holy affections in us.

I said moreover, That it was a more refined piece of idolatry, to conceive otherwise of God
2 P.

in our thoughts, than as he had revealed himself by the scriptures of truth, in his infinite excellencies. And therefore to relieve us, in preventing any gross mistakes in our absurd imaginations of God, we were bound to fix our thoughts and conceptions in prayer, upon God in Christ, as incarnate; who is the only express image of the Deity; and not any corporeal, dishonourable misrepresentations of God, by the help of pictures or crucifixes.

I found also, that his Popish education had strongly prevailed on him, to adhere to the false and absurd dotages of the Romish church: for when I told him, That it was not safe to die in that religion; he replied, "That he was resolved to hold and persevere in it, because he had been bred up in it." I said, That could not be a solid argument; for then he might be as peremptory to die in a sinful state, because the principles of a corrupt nature were riveted in his heart, and were grown familiar to him by custom.

He was sometimes pettish; yet when the fit was off, he hearkened to my advice, and joined with me in prayer. I desired him not to mock God, either by any deliberate wandering in his thoughts, while I should pray; nor by saying any Ave Marias or Popish petitions secretly to himself. He promised me, he would not. He was troubled for his sinful course of life: Yet I told him, That was not repentance deep enough. David's heart was the centre of his remorse; and that not only his heinous crimes of murder and adultery were his burden, but the sense of his vile corrupt nature, which was the poisonous spring of all scandalous impieties. And that, as we are in our thanksgivings for divine mercies, to ascend to the free-grace of God, in giving Christ to redeem us, as the spring-head of all spiritual benefits; so, in a penitent confession of sin, we must likewise ascend to the guilt and defilement of original sin, whence all actual abominations flow. That this is a great relief to us, when we cannot make a distinct particular enumeration of our sins: And that no hypocrite can be truly humbled for the sin of his corrupt nature, nor for Gospel-unbelief, which is the direct damning sin, as being against the very remedy of our recovery from a state of sin and misery.

Every day, after suitable advices given to him, I prayed with him. He had not been grammared in that strange distinction, which most of those Popish malefactors had learned, That a Papist may lawfully desire a Protestant's prayers at home; yet that his joining in prayer, is an owning of their reputed heresy; whose breath is infectious, when poured out in the solemnity of praying mutually in each others' presence. Hill had learned this evasion, though Staley and Berry, as well as Green, had not. I believe, the true reason why all the other criminals denied me liberty to pray with them, was, lest I should touch too distinctly upon the right sore (which they palliated, yea denied) and so dreaded that trouble and perplexity, which might thereby be raised in their consciences.

I can give no further account of Green, but only this, That upon the day before his execution, he told me, That he had received much information by my discourses, and benefit by my prayers, in order to fit him for his death: He thanked me for my visits, but discharged me from farther attendance upon him; so I went not with him to the place of execution, to observe what end he made.

VII. Mr. HILL.

This Hill was one of the murderers of sir E. Godfrey. He was born and bred a Papist. He was not a shoemaker, as was reported; but the son of a shoemaker. He said, That he had been servant to a Recusant lady, and managed some of her concerns; and went over sea sometime, to give her an account thereof. That he had lately hired an house for himself to dwell in; but was not present at the aforesaid murder: Yea, that he knew nothing of it, more or less, neither before nor after. This he often averred with so many self-imprecations, that I was afraid to urge him for the present, to any farther acknowledgment; lest I might thereby give him an occasion to aggravate his sin, and seal up his damnation with greater obduration and impenitency. I unfolded to him, the wide difference betwixt the Protestant and Popish religion; and that the latter could not be a religion instituted by Christ, because it was founded in blood, and propagated by artifices of cruelty, injustice, violence, equivocations and perjuries: Yea, even by false appeals to the omniscient Judge of innocency, when crimes were juridically proved against the appellants.

I said, That this was the deepest policy of Papists, fetched from the conclave of hell: for such daring and atheistical appellants, are not only possessed with the spirit of lying, and strongly deluded, while living, to believe a false, absurd religion; but also do as strangely, out of an obstinate, impenitent heart, palliate bloody crimes with a flat denial of them, after conviction thereof by due process of law. Surely such a violation of the sentiments of conscience, must needs proceed from an atheistical denial of God's omniscient inspection, or a prophane doubting of the future judgment. As if false appellants had not souls capable of damnation, or studied how to seal it up more firmly to themselves: but such studied evasion of their crimes, render them blacker and more horrid, while they would make credulous persons suspect their accusers to be perjured; which is a sin of that deep die and malignity, that it rarely admits of any repentance in the sinner, or pardon from God. Yet so hardened are some, that they will stand out in the denial of their crimes, though proved against them, to the last breath. They are not afraid to look the Almighty Judge in the face, with a lie in their mouth.

But then such frontless stupid sinners presume, they shall have this relief as a shield, to keep off their damnation; that their self-im-

precation was for the promoting of a greater good; viz. That the Romish religion may not lie under the reproach of a blood-thirsty disposition, in its professing party; lest, being hindered its propagation, if this were credited, it should gradually become so abominable as to be rooted out.

Papists think, that they may lawfully, safely, yea commendably perjure themselves, to promote their false religion; especially, if in a transport of zeal, they imprecate themselves, that they may sit higher in the good opinion and implicit faith of their blinded proselytes. Such was Hill! Who was not more subtilly moulded unto, than deeply confirmed in all Popish principles. Hence it was, that he would not admit of any information which might beget the least suspicion of their falsity: Yet this was very commendable in him, that when I exhorted him to take a strict review of his sins; that so, being deeply humbled for them, he might obtain some hopeful prospect of their pardon: He replied, "That he had endeavoured to search out whatever might provoke the Lord to desert him, and suffer him to fall under the fatal sentence pronounced upon him." He said, "He had been guilty of sins enough, for which he was thus severely punished." Among the rest, he instanced in this; "That he had wronged one in a twelve-penny matter; but he was now so troubled about it, that he had made restitution since his condemnation; although he was in extreme want of necessaries for his present subsistence." I commended this in him; but withal told him, That there was one crime committed by him, for which he could never make any satisfaction; viz. the murdering of sir Edmund: yet, that upon his true repentance, Christ's bloodshed was all-sufficient to wash away the stain and reproach of this most prodigious wickedness.

He still stood out in a peremptory denial. "That he knew any thing of it, more or less." And in the usual canting language, affirmed, "That he was as innocent of it, as the child unborn." Which words may admit of an equivocation: For the child unborn is innocent, as not being capable of committing or declaring the heinousness of such a crime. But though Hill was capacitated for it, with all imaginable principles of Jesuitical subtilty; yet his deepest sophistry appeared, in pretending to be as innocent as the child unborn; viz. In this sense, innocent, as not able to declare his guiltiness of the said murder: for so he might be unable, in respect of an oath of secrecy, which was the seal of his impenitency. Or, he might think to evade the confession of it by this equivocation, viz. I am as innocent of the fact as there is truth in this, that the child unborn is here present, reserving this supplement of the assertion unto himself. And then it being unriddled in plain English, it comes to thus much, "I am as innocent of the fact laid to my charge;" that is, there is as much truth in affirming this, as there is in the child's being present,

which is yet unborn: For there is not truth in either.

I did fear, that some such equivocation might shroud itself under Hill's flat denial of the said murder: Therefore, I told him, that his ingenuity in confessing a pecuniary wrong, and making restitution, could not demonstrate any sound repentance, unless he took the shame of this murder upon himself, by a free confession of it. For a sincere penitentiary dares not conceal any sin, though of never so ignominious a nature. He replied, "That he had taken shame to himself, in confessing his doing wrong, and that he had violated the integrity, and peace of his conscience, for a very trifle: Therefore, I could not think, he denied the murder laid to his charge, that he might maintain his reputation." But to confute this plea: I knew a felon, who denied the robbery for which he was condemned; yet probably to insinuate into me a good opinion of him, he confessed that he once robbed a poor man going to market, but being afterwards troubled in his conscience for so doing, he enquired out where the person wronged lived, and sent him double restitution; "because happily," (said he) "the poor man losing of his market, might have gained as much as I sent him, by selling the provisions which he was carrying thither." Thus some will pretend to be ingenuous in confessing hidden crimes, and yet will stand out in denying such which are proved against them. This is but a counterfeit remorse.

On the day before Hill's execution, he discharged me of farther attendance, because he said, he would be in greater retirement, to fit himself for his death, now so nearly approaching: whereupon I took leave of him; and he prayed God to reward me for all my visits of him.

VIII. Mr. BERRY.

Berry the porter of Somerset-house, was one of the murderers of sir Edmundbury Godfrey, and was executed some time after Hill and Green. He willingly admitted me to visit him for many days, sometimes twice in the same day. I found him dejected at the first, yet afterwards he was reduced to a more composed frame. I observed that he had some books in his chamber; of all which I took an inspection, and found no popish author among them. I told him, that I much approved of his care in the choice of those books, especially of the Bible, to be his associates and guides in his solitary confinement. Then I advised him, to search his heart-state God-ward, and to consider for what special sins God had deserted him, to fall into so shameful and notorious a crime, as the murder of sir E. Godfrey; who had demonstrated himself to be a worthy patriot of his country. He replied, that he knew nothing of it, neither before, nor after; and that he was no ways accessory to the guilt of it. I said, I could not give credit to him in that; for the crime was clearly proved against him. I did not much urge him to confess it, at that time, fearing I might provoke him to be

more shy of embracing any future visits or advice. I bent my discourse, to fit him for his approaching death; and from Scripture demonstrated, that immediately after the soul's expiration, every one is presented by angels good or evil, (according as their state is, in which they die) before the dreadful tribunal of Christ, the most impartial righteous judge of all men. And that of what nature the sentence which then passed was of, it was irrepeatable: Therefore he could not be too circumspect in trying his heart-frame, which is naturally deceitful; for if his faith and repentance, (the only qualifications and evidences of a future happy state) were not solidly built on Christ, as the rock of salvation, after his being adjudged, there could not be any retrieval of the sentence, though it were to the eternal banishment of his soul from the bliss-making vision, and fruition of the God of glory. This awakened him to some remorse for the sins of his life. I then proceeded to advise him, not to venture to die in the Romish persuasion; for this could not produce solid nor lasting tranquillity in any conscience, perplexed and defiled with the guilt of the least sin. In as much as papists build their hopes of future happiness on corrupt principles, viz. they mix the belief of the falsities of the Apostolical-Trent-council with the articles of the Apostolical creed; which can never cement into any consistency of truth, either in matters of faith, or practice. I did undertake to discover the notorious absurdity of some popish opinions; in doing which, he was not only very attentive, but said, he did not believe many things which the doctors of the Romish church teach, as necessary to be embraced for articles of the true faith:

I told him, I hoped that he was not stubborn in that heresy; having declared himself better informed. Yet he did not deny that he was a papist. After much discourse, I drew out a little Treatise of one Mr. Bradshaw's, which states in short, but very solid theses, or propositions, the true nature of justification by faith in Christ; and oppugns, yea, overthrows the popish doctrine of good works, as meritorious of salvation: I lent it Mr. Berry, who having read it, liked it, and said, He was much settled and confirmed in the belief of that sound and comfortable doctrine. He often admitted me to pray for, and with him; he was not afraid to be infected with the breath of an heretic, as Mr. Coleman and others of the fraternity in conspiracy were. I doubt not but wholesome counsel, and fervent prayer, wrought much on Mr. Berry, to bring him to some remorse for his sinfulness; for he gave an eminent signal of this in declaring that God had justly left him to fall under the sentence of so shameful a death, for his notorious dissimulation; which was this, viz. That he had for his private interest, and to supply some wants he was in, changed his protestant profession, and turned papist, against the dictates of his conscience, to get into employment by favour of that party. This he affirmed more wounded his conscience,

than all the sins which he had committed in the whole course of his life. Yet still he was very shy and reserved, as unto any acknowledgment of the notorious murder of sir Edmundbury Godfrey. But take notice, that a sincere conscience doth not content itself with the confession only of some particular sin, but is most free and ready to take the shame of every sin, especially of such a crime as wilful murder, clearly proved against him. And that none are such proper objects of God's just condemnation, as such, who to cover any one sin, though never so small, will study evasions, to deny, conceal, or extenuate it.

Thus to cover sin, is to add sin to sin. The obligation to punishment takes faster hold, the guilt remains incapable of being pardoned: the sin not confest, rankles and festers in the conscience, haunts the sinner as an affrighting ghost, yea, the contagious poison spreads, till it grow so strong in the malignity of it, that it damns eternally.

This alarm (or awakening consideration) I gave to Berry, that I might excite him to an ingenuous confession of the murder of sir Edmundbury Godfrey; and beside, I told him, that there was this danger in not confessing a crime, that it hardens the heart insensibly, to an impudent and impenitent peremptory denial of it. And that this was the blackest mark of a reprobate. Afterward I prayed with him, that the Lord (who is the searcher of all hearts, and the just avenger of all lying and false appeals) would incline him to an hearty and free acknowledgment of this very crime; that he would grant him true and deep repentance, and strengthen his faith in the merit of Christ's blood, for expiation of so great guilt. Berry had a reprieve for some time to fit himself for death, and I hope he made good use and improvement of it. For when the morning came, wherein he was to be executed, I found him in a more penitent, melting frame than before. I prayed with him at his execution. I must do him this right, as to say, that he was in a very serious composed temper; for I have seldom heard any malefactor (at the public place of suffering) express himself in such suitable and heart-broken petitions for divine pardon, and renewing grace, as Berry did: he needed not a prayer book in his hand; his soul-agonies taught him to pray; nor did he let fall any thing, which smelt in the least of popish leaven. His prayer was fervent and very composed, though death stared him in the face; yet was he not under any consternation or dejection. He said not any thing, either in asserting his innocence as to the murder of sir Edmundbury Godfrey, neither as to the religion he died in. He fixt his eye upward, and looked not upon the people, being very intentive on the great work he was about. I gave him a large time to prepare and fit himself to die: He made some secret ejaculations of his heart Heaven-ward: then taking a solemn farewell, I desired him to resign himself up to the mercies of God in the alone and all-sufficient merits of

Christ, and so I went out of the cart; and after a little time of consideration with himself, the sentence of death was executed upon him.

AN ACCOUNT of the FIVE JESUITS, condemned to be drawn, hanged, and quartered, on Saturday the 14th of June, 1679, viz. Whitebread, Harcourt, Fenwick, Gawen, and Turner.

These five Jesuits having received the aforesaid sentence, for conspiring the death of the king, and the subversion of the Protestant Religion, I did on the Monday following (because the duty of my office as ordinary obliged me,) offer to them my assistance to prepare them for their execution; but they did not admit me to their chambers: Thereupon, I desisted from any farther offer to visit them. Yet upon the day of their execution I waited for an opportunity to speak with them before they were conducted to the sledges.

I. Mr. HARCOURT.

Mr. Harcourt was first brought down from his chamber, to be carried up to the chapel, where a door opens to convey them down the stairs more conveniently to the sledges.

I thus spake to Mr. Harcourt, Sir, you did not think fit to admit me to any discourse in your chamber, but now that you are upon the very borders of death and must be judged to an eternal state in happiness or misery, consider well how heinous the crime is for which you are to suffer death. Beg of God to give you true repentance unto life eternal, and do not stand out in the denying or extenuation of your crime.

Mr. Harcourt made me this slight answer, "That I needed not to trouble myself concerning him, for he knew his duty;" and so past away from me.

II. Mr. WHITEBREAD.

Then came Mr. Whitebread from his chamber; I said something of advice to him as a dying man, and told him withal, that I had earnestly prayed that God would give him repentance, in order to pardoning grace and salvation. This he resented with more calmness and modesty of spirit than Harcourt did, and pat off his hat to me at parting.

III. — Mr. FENWICK.

I had longer discourse with Fenwick in a little room alone by himself. I did address myself to him in more pathetic expressions, than to the two other, because I had more opportunity for it. In sum, I wished him to search his heart, because every man's by nature is as deceitful as it is corrupt. That he would pray to God to undeceive him, as to any false hopes of Heaven, and not build on any sandy foundation, by trusting to any humiliation for sin, or the merits of any saint or angel; and that he would not stand out in denying of his crime. That he would consider seriously

of that sacred scripture in the twenty eighth of the Prov. of Solomon, the thirteenth verse, He who hides his sin shall not prosper in the attempting of it, but rather exposes himself to a curse. But whosoever confesses and forsakes his sin, shall obtain mercy. He said, that he had confest betwixt God and himself, and that was sufficient.

I told him, that in respect of the greater scandal he had given, and reproach he had brought upon religion, which obliges to all fidelity towards princes, and forbids the subversion of a lawful government, he ought to express great sorrow for, and detestation of such principles which destroy human society.

But he angrily replied, "What? do you undertake to instruct me, or others of my order, as if we were not men of reason and learning?" I told him, that I was bound to assist him as a dying man, and to put him in mind of seeking his soul's salvation, in a right way. And that, whereas he slighted my advice, he ought not to look upon any Protestant divine, to be like their novices, whom they train up in ignorance, as if it were the mother of devotion.

I said, that I stood amazed, that any man of his learning should so far forfeit the repute thereof and all the sentiments of a good conscience, as to adhere to principles so destructive to all order, equity, and government established by light of nature, even among savages.

He was not pleased with my discourse, yet I did assure him, I would not desist praying for him, while I could rationally think that he was alive, and within the reach or benefit of my prayers. And so we parted.

IV, V. Mr. GAWEN and Mr. TURNER.

I could not speak with Gawen or Turner till they were placed in the sledge. I spake but little to them, time, and the noise of the people thronging me, would not permit me to say much. Only I told Mr. Gawen, that now death stared him in the face and his judgment to an eternal state was very near; therefore I advised him not to palliate or extenuate his great crime, much less to deny it; for, he would hazard his salvation, if he went out of the world with a falsity in his mouth.

I told him I had and would continue to pray for him and his fellow-criminal in the sledge with him. So wishing them a penitential frame of heart, that they might obtain eternal life in Christ, upon the drawing away of the sledge, Mr. Gawen shewed a public signal of civility to me, and thanked me. He seemed much more cheerful than the rest. And I hope he had better grounds for it.

Mr. LANCHORN.

After sentence of death past upon the said unhappy gentleman, as being involved in the Jesuitical Conspiracy against the king and nation; I addressed myself in a visit to him, which he accepted. When I first came into his chamber, I told him, That I came not to upbraid a dying man, though of a contrary religion: that

I pitied him, as a condemned criminal: yet was more troubled, that he should espouse the Popish persuasions so far, as to suspend, or renounce rather, the sentiments of right reason, in embracing and adhering to so corrupt and absurd opinions. He answered me, "That he thought himself in a surer way for to attain salvation, than any of my opinion could set themselves in. For Protestants," said he, "follow the mistakes of their private judgments; and then cry them up, for the genuine interpretation of the Holy Scriptures. But we," said he, "who are Roman Catholics, have the conduct of an infallible guide, to interpret obscure ambiguities in the Scriptures: for no Scripture is of any private interpretation; otherwise, well-meaning persons may propose, and put off their fancies, for solid conclusions, drawn from the sacred Records of God's word." He said, "That therefore, there was great need of an external, supreme, infallible judge on earth; whose decision upon appeals, can only state and determine all controversies about matters of faith and practice." I replied, that the Divine Authority of God, as imprest upon the veracity of the Scriptures, was never separated from the same spirit, who did dictate them, as unto special guidance; so far, as not to desert sincere Christians, that should they fall into any damnable heresy. But I feared, that the Romish opinions were such, though they be imposed to be believed and obeyed, upon the score of the Pope's infallibility, equally with the sacred Scriptures. What blasphemy is this, for a sinful man to arrogate the title of Infallible, due only to God, the fountain and archetype of all truth! That the Father of lights, gave mankind the best and safest conduct of his own holy, infallible spirit, in matters aforesaid. And that the Scriptures, being exemplified from his essential purity and veracity, were not defective as human laws; which require an external judge and interpreter, distinct from themselves, in their original constitution. So that, in all things necessary to Salvation, the Scriptures were a perfect rule and standard, to dictate and determine matters of faith, and Christian obedience. Yet so arrogant is the pope, as to challenge an authority to himself, to give the Scriptures a sanction; yea, to over-rule them by his corrupt traditions, which he declares infallible. Thus he exautorates, and invalidates their divine original, and superintendency; as if they received all the life of their interpretation, from his authoritative dilucidation, as the moon doth her light from the sun. Hence it is, that when the pope enters into any council, he hath the Bible placed under his feet, while singly himself over-rules the council; and exalts his sole determination above the sacred records of truth. Hence it is, that under a pretence, that the Scriptures are obscure, and a dead letter in themselves, that they must be animated with his traditions, though never so absurd and contradictory to their divine authority, certainty, and perfection.

Also I said, That where the Scriptures were obscure in one place, they explained that ambiguity in another: so that, there was no need of any external judge. And that Protestant Divines did not give out their private sentiments, and interpretations of the Scriptures, for laws, to supersede the innate authority of the Scriptures; or to oblige Christians to an implicit faith and obedience, as the Pope doth; who over-rules the very Scriptures themselves: so that, no part of them is canonical, but only those books, which he declares to be such. Thus a sinful man judges that sacred law, by which himself, and all men must be judged; though he claim a power to pardon sin, and dispose of the eternal rewards of virtue, or vice; accordingly as himself pleases to determine the nature and circumstances of both. Hence I said, It proceeded, that the opinions of the Romish Church were so corrupt, as moulded and adapted to serve and promote the carnal interest of his ambition, and the licentiousness of his followers.

Then he asked me, Whether I did not think, that the Popish and Protestant religion might not be reducible into a coalition or unity? I answered, No; because they were so contrariant, that they could never cement, so as to yield a safe conduct to eternal life. Inasmuch, as Christ himself averred, That in vain do all such worship him, who teach for divine doctrines, the traditions of men: that whosoever adds or diminishes from Scriptural-fundamentals, despises, and seeks to nullify the wisdom and authority of God himself. That Popish principles undermine, and subvert the all-sufficiency of Christ, in the execution of his offices. That as Socinians cannot be accounted Christians, who deny the divinity of Christ's person: so Romanists, who invalidate his offices, are Anti-Christian, in their spirits, and in their misbelief.

Therefore, there is no more hope, that two religions so opposite, should ever cement in one, according to the analogy of faith, prescribed by Christ; than that light and darkness should agree, or have fellowship.

Nor can there be any colour of right reason, for that distinction; that Popish traditions are rather beside the rule and dictates of the Scriptures, than directly contrary to them. For, whatever is not agreeable to the revealed, perfect will of God, either directly, or by natural consequence, or by right deduction, it is a sin. Consider, There is as little hope and comfort for that person, who falls into a river, by slipping betwixt, or beside the bridge; as for him, who directly casts himself into it. Both may be drowned irrecoverably. The one, out of the inadvertency, or mistake of a drunken giddiness: the other, out of the presumption of a sullen obstinacy. There are more ways which lead to death, than the direct stabbing of one's self. So, transgression on the right-hand, in a superstitious zeal, may ruin a man's soul, as certainly, as down-right atheism and prophaneness.

After these discourses, I asked Mr. Langhorne, That I might pray with him? He answered me, No; yet, I desire your prayers at home. He said, That prayer in presence, was an Act of Communion; but it was unfit, to join with one, who was not a member of the Roman Church. I replied, That I thought, there was little or no difference in such distinct praying; however, it could not be any unlawful act. He would not admit me to pray with him: therefore, to root out such a scruple, I shall state now, more at large, what I then spake more succinctly. Is not prayer an universal duty, and a testification of Christian charity? Therefore, to limit it only to such, who are adopted into any faction, is to look on all others, as excommunicated from Christ, and the hope of salvation by him, as the only head; who influences the Universal Church, with the spirit of faith, unity, and concord.

Can any Papist think to receive benefit by prayer, himself being absent; who hath not so much charity, as to bear Protestants' presence, in praying together? What proud singularity is this? What inconveniency can happen, from a Protestant's joining with a Papist in prayer, if they do not mix their private opinions (which are fitter for a disputation) in the time of praying together? Such imprudence would turn prayer, which is the badge of Christian Communion, into an occasion of reproach; and embitter each others spirits, to remain at a farther distance. To prevent such a mischief, let them consent, that they will keep close to Scripture-matter, and phrases in prayer; because in these, they are agreed. So shall they not grieve each other, by an uncharitable exagitating and venting of their private opinions. Yet I deny not, but that they ought to desire of God, that he would clear up to them his truth and ways more fully; and that, in whatever they dissent, by way of mistake about opinions foreign to the essential parts, and fundamentals of Christian Religion, they may come to a right understanding of each other; and may recede from any false mixtures, super-added to Christ's pure religion. Therefore, to deny any Protestant Divine, to pray with Popish persons condemned, when they cannot have the relief

thereof, from any of their own persuasion; lest they should confirm them in their corrupt principles, or join wicked counsels, to diffuse their treasonable designs, by messages, to put Plots in execution, is a warrant to deny them the assistance of their own party. Yet they stick not, to grow sullen and insolent, in rejecting the prayers of Protestant Divines.

How careless of, and cruel to their own souls, are such, who will not by all lawful helps, secure and promote their souls everlasting blessedness! Is not this such a breach of charity, as to make void their own prayers for themselves? and to limit Christian Religion, only to the Roman Church, which is but a corner of the Christian world; and cannot be properly Catholic, unless it embrace an universal charity for all Christians, who profess the same Christ, and the same fundamentals of Christianity? But Protestants have not so departed from the Church of Rome, as to hate all persons of her society; but only, their corruptions in doctrine and practice. We deny not to them, the duties of common charity; or such requisite assistances at the time of extreme sickness, or death, which may safely consist with their not being confirmed in Popish principles, too deeply rooted in them already; and the consistency of the established government, in the English Church, and state. After these conferences with Mr. Langhorn, I asked him, whether he were the very person accused before the committee of parliament, in 1666; for being conscious, at least, of the conflagration of London, by treachery: because Mr. Richard Langhorn, counsellor at the Temple, is said in a deposition upon oath, to have cast out threatening words about the said conspiracy?—He answered me, That he was the person then accused; but knew no more of the firing of London, than he did of this Plot. But what he knew of this, is sufficiently demonstrated, by his being condemned, and executed for a well-wisher to it, and agent in it. I offered a second visit to him, on the Thursday before his execution; but he sent me thanks, and desired to be wholly retired to himself. So being in the country when he was executed, I cannot give any further account concerning him.

253. The Trial of Sir GEORGE WAKEMAN,* bart. WILLIAM MARSHAL, WILLIAM RUMLEY and, JAMES CORKER,† Benedictine Monks, at the Old Bailey, for High-Treason: 31 CHARLES II. A. D. 1679.

UPON Friday the 18th of July, 1679, at the Sessions House in the Old Bailey, London, the Court being met, and proclamation made for attendance, the trials proceeded thus:

Clerk of the Crown. Set sir George Wakeman, William Marshal and William Rumley to the bar. Sir George Wakeman, hold up thy hand. Which he did. And so of the other two.

* "Wakeman's trial came on next. Oates swore he saw him write a bill to Ashby the Jesuit, by which he knew his hand: and he saw another letter of his writ in the same hand, in which he directed Ashby, who was then going to the Bath, to use a milk diet and to be pumped at the Bath; and that in that letter he mentioned his zeal in the design of killing the king. He next repeated all the story he had sworn against the queen: Which he brought only to make it probable that Wakeman, who was her physician, was in it. To all this Wakeman objected, that at first Oates accused him only upon hear-say: and did solemnly protest he knew nothing against him: which was fully made out. So he said, all that Oates now swore against him must be a forgery not thought of at that time. He also proved by his own servant, and by the apothecary at the Bath, that Ashby's paper was not writ, but only dictated by him: for he happened to be very weary when he came for it, and his man wrote it out: and that of the milk diet was a plain indication of an ill laid forgery, since it was known that nothing was held more inconsistent with the Bath water than milk. Bedlow swore against him, that he saw him receive a bill of 2,000*l.* from Harcourt in part of a greater sum; and that Wakeman told him afterwards that he had received the money; and that Harcourt told him for what end it was given, for they intended the king should be killed, either by those they sent to Windsor, or by Wakeman's means: and if all other ways failed, they would take him off at Newmarket. Bedlow in the first giving his evidence deposed, that this was said by Harcourt when Wakeman was gone out of the room. But observing, by the questions that were put him, that this would not affect Wakeman, he swore afterwards, that he said it likewise in his hearing. Wakeman had nothing to set against all this, but that it seemed impossible that he could trust himself in such matters to such a person: and if Oates was set aside, he was but one witness. Three other Benedictine priests were tried with Wakeman. Oates swore, that they were in the plot of killing the king; that one of them, being their superior, had engaged to give 6,000*l.* towards the carrying it on. Bedlow swore

"You stand indicted by the names of sir George Wakeman, late of the parish of St. Giles in the Fields, in the county of Middlesex, bart. William Marshal, of the same parish and county, gent. and William Rumley, of the same parish and county, gent.: For that you as false traitors against the most illustrious, serene and most excellent prince, Charles the Second, by

somewhat circumstantial to the same purpose against two of them: but that did not rise up to be treason: and he had nothing to charge the third with. They proved, that another person had been their superior for several years; and that Oates was never once suffered to come within their house, which all their servants deposed. And they also proved, that when Oates came into their house the night after he made his discovery, and took Pickering out of his bed, and saw them, he said he had nothing to lay to their charge. They urged many other things to destroy the credit of the witnesses; and one of them made a long declamation in a high bombast strain, to shew what credit was due to the speeches of dying men. The eloquence was so forced and childish, that this did them more hurt than good. Scroggs summed up the evidence very favourably for the prisoners, far contrary to his former practice. The truth is, that this was looked on as the queen's trial, as well as Wakeman's. The prisoners were acquitted: and now the witnesses saw they were blasted. And they were enraged upon it; which they vented with much spite upon Scroggs. And there was in him matter enough to work on for such foul-mouthed people as they were. The queen got a man of great quality to be sent over ambassador from Portugal, not knowing how much she might stand in need of such a protection. He went next day with great state to thank Scroggs for his behaviour in this trial. If he meant well in this compliment, it was very unadvisedly done: For the Chief Justice was exposed to much censure by it. And therefore some thought it was a shew of civility done on design to ruin him. For how well pleased soever the Papists were with the success of this trial and with Scroggs's management, yet they could not be supposed to be so satisfied with him, as to forgive his behaviour in the former trials, which had been very indecently partial and violent." Burnet.

† In the following year, Marshal and Corker were, together with others, tried and convicted upon the stat. 27 Eliz. c. 2. See the trials of Anderson alias Munson and others, January 17, 1680: *infra*. See the stat. in Brommick's Case, Aug. 13, 1679, *infra*.

the grace of God, of England, Scotland, France and Ireland, king, defender of the faith, &c. your supreme and natural lord; the fear of God in your hearts not having, nor weighing the duty of your allegiance, but being moved and seduced by the instigation of the devil; and the cordial love, true, due and natural obedience, which true and faithful subjects of our said sovereign lord the king do and of right ought to bear towards him, our said sovereign lord the king, utterly withdrawing, and endeavouring and intending with all your strength, the peace and common tranquillity of this kingdom of England to disturb, and the true worship of God within this kingdom of England used, and by the laws of the same established, to overthrow, and the government of this realm to subvert, and sedition and rebellion within this kingdom of England, to move, stir up and procure, and the cordial love, true, due and natural obedience, which true and faithful subjects of our said sovereign lord the king, ought and of right are bound to bear towards him, our said sovereign lord the king, wholly to withdraw, put out and extinguish, and him our said sovereign lord the king, to death and final destruction to bring and put, you the said sir George Wakeman, William Marshal and William Rumley, the 30th day of August, in the 30th year of the reign of our said sovereign lord king Charles the Second, at the parish of St. Giles in the Fields aforesaid, in the county aforesaid, falsely, maliciously, subtilly, advisedly and traitorously did purpose, compass, imagine and intend, sedition and rebellion within this kingdom of England to move, stir up and procure, and miserable slaughter among the subjects of our said sovereign lord the king to cause and procure, and our said sovereign lord the king, from his royal state, title, power and government of his said kingdom of England, wholly to deprive, depose, cast down and disinherit, and him our said sovereign lord the king, to death and final destruction to bring and put, and the government of this kingdom of England, and the sincere religion of God, within the same rightly and by the laws of the same established, at your will and pleasure to change and alter; and the state of this whole kingdom of England, through all its parts well instituted and ordained, wholly to subvert and destroy; and war against our said sovereign lord the king, within this kingdom of England, to levy; and to accomplish and fulfil those your most wicked treasons and traitorous imaginations and purposes, you the said sir George Wakeman, William Marshal and William Rumley, and other false traitors unknown, the aforesaid 30th day of August, with force and arms at the parish aforesaid, in the county aforesaid, maliciously, subtilly, advisedly and traitorously did assemble, unite and gather yourselves together; and then and there, falsely, maliciously, subtilly, advisedly, devilishly and traitorously did consult, consent and agree, our said sovereign lord the king, to death and final destruction to bring and put; and the religion

within this kingdom of England rightly and by the laws of the same established, to change and alter to the superstition of the Church of Rome; and to move, procure and persuade them, the said William Marshal, William Rumley and other false traitors unknown, the agreement aforesaid to fulfil and accomplish, you the said sir George Wakeman, after, to wit, the said 30th day of August, in the parish aforesaid, in the county aforesaid, to them the said William Marshal, William Rumley and other false traitors unknown, did traitorously promise to give your assistance, the government of this kingdom to subvert, and the true worship of God, in this realm rightly and by the laws thereof established and used, to the superstition of the Church of Rome to alter: And that you the said sir George Wakeman, then and there, falsely, maliciously, subtilly, advisedly, devilishly and traitorously, did undertake to kill and murder our said sovereign lord the king: And in further prosecution of the treasons, traitorous conspiracies, intentions and agreements aforesaid, you the said sir George Wakeman, the said 30th day of August, at the parish aforesaid, in the county aforesaid, falsely, traitorously and against the duty of your allegiance, did receive and had (from a certain person unknown, pretending to be provincial of the Jesuits in England, and claiming authority for the granting commissions in that part from the see of Rome,) one commission to institute and authorise you the said sir George Wakeman to be physician-general of the army, to be raised for the waging war against our said sovereign lord the king within this kingdom of England, and the same commission then and there, falsely, advisedly, maliciously and traitorously did inspect and read over, and traitorously did keep in your possession, and to the same falsely, knowingly, advisedly and traitorously did consent and agree, with that intention, that you the said sir George Wakeman should have, receive and exercise the place and office of physician-general of the army aforesaid, when you the said sir George Wakeman, William Marshal, William Rumley and the said other false traitors unknown, should have performed and accomplished your treasons, compassings, imaginations, purposes and traitorous agreements aforesaid. And that you the said William Marshal and William Rumley, in further prosecution of your treasons, traitorous conspiracies, intentions and agreements aforesaid, the said 30th day of August, in the parish aforesaid, in the county aforesaid, did falsely, subtilly and traitorously consult, conclude, consent and agree, that you the said William Marshal, William Rumley and other false traitors unknown, should pay the sum of 6,000*l.* towards furthering and consummating the traitorous agreements aforesaid, amongst the said false traitors had, our said sovereign lord the king to kill and murder, the true worship of God within this realm rightly and by the laws of the same established, to the superstition of the Church of Rome to alter, and the government

of this kingdom of England to subvert, against the duty of your allegiance, against the peace of our said sovereign lord the king, his crown and dignity, and against the form of the statute in this case made and provided."

Cl. of the Cr. How sayest thou, sir George Wakeman, art thou guilty of this High-Treason whereof thou standest Indicted or Not Guilty?

Sir G. Wakeman. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Sir G. Wakeman. By God and my country.

Cl. of the Cr. God send thee a good deliverance. [And so the other two.]

Cl. of the Cr. Set James Corker to the bar, (who was arraigned, and pleaded last sessions,) James Corker, hold up thy hand. You the prisoners at the bar, sir George Wakeman, William Rumley, William Marshal, and James Corker, those men that you shall hear called and personally appear, are to pass between our sovereign lord the king and you, upon trial of your several lives and deaths; if therefore you or any of you will challenge them, or any of them, your time is to speak unto them as they come to the book to be sworn, and before they be sworn. Call Ralph Hawtrey, esq. who appeared, and there being no challenges the twelve that were sworn are as follows: Ralph Hawtrey of Rislipp, Henry Hawley of New-Brentford, Henry Hodges of Hanwell, Richard Downton of Isleworth, John Bathurst of Edmonton, Robert Hampton of Greenford, William Heyden of Greenford, John Baldwin of Hillingdon, Richard Dobbins of Harvile, William Avery of Enfield, Esquires. William Wayte of St. Clement Danes, gent. Richard White of Cripple-gate, gent.

Cl. of the Cr. Crier, count these. Ralph Hawtrey.

Crier. One, &c.

Cl. of the Cr. Richard White.

Crier. Twelve good men and true, stand together and hear your evidence.

Then the usual Proclamation for information was made, and the Prisoners being bid to hold up their hands, the Clerk of the Crown charged the Jury with them thus.

Cl. of the Cr. You of the Jury look upon the prisoners, and hearken to their cause. They stand indicted by the names of (prout in the Indictment *mutatis mutandis*) and against the form of the statute in that case made and provided: and he the said James Corker, stands indicted by the name of James Corker of the parish of St. Giles in the fields, in the county of Middlesex, clerk;

"For that he with Thomas White, John Fenwick, William Harcourt, John Gavan, and Anthony Turner, as a false traitor against the most illustrious, most serene, and most excellent prince, Charles the 2nd, by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, &c. his supreme and natural lord, not having the fear of God in his heart, nor weighing the duty of his allegiance,

but being moved and seduced by the instigation of the devil, the cordial love, true, due and natural obedience, which true and faithful subjects of our said sovereign lord the king, towards him should, and of right ought to bear, wholly withdrawing; and advising, and with all his strength, intending the peace and common tranquillity of this realm to disturb, and the true worship of God within this kingdom of England used, and by the law established, to overthrow, and the government of this realm to subvert, and sedition, and rebellion within this kingdom of England to move, stir up and procure, and the cordial love, and true and due obedience which true and faithful subjects of our said sovereign lord the king, towards him should, and of right ought to bear utterly to withdraw, put out, and extinguish, and our said sovereign lord the king to death and final destruction to bring, and put, on the 24th day of April, in the 30th year of the reign of our said sovereign lord king Charles the 2nd at the parish of St. Giles in the fields, in the county of Middlesex aforesaid; he the said James Corker, together with the said Thomas White, John Fenwick, William Harcourt, John Gavan, and Anthony Turner, with divers other false traitors subjects of our said sovereign lord the king to the jurors unknown, falsly, subtilly, advisedly, maliciously, and traitorously, did purpose, compass, imagine, and intend sedition and rebellion within this kingdom of England, to move, stir up and procure, and a miserable slaughter among the subjects of our said sovereign lord the king to procure and cause, and our said sovereign lord the king, of his kingly state, title, power, and government of his kingdom of England, utterly to deprive, depose, cast down, and disinberit, and him our said sovereign lord the king to death and final destruction to bring and put, and the government of this kingdom of England, and the sincere religion of God within the same, rightly, and by the laws of the same established, at his will and pleasure, to change and alter, and the state of this whole kingdom of England, through all its parts well instituted and ordained, wholly to subvert and destroy; and war, within this kingdom of England, against our said sovereign lord the king, to levy: and to accomplish and fulfil their said most wicked treasons, and traitorous imaginations and purposes, he the said James Corker, together with the said Thomas White, John Fenwick, William Harcourt, John Gavan, and Anthony Turner, and other false traitors against our said sovereign lord the king, to the jurors unknown, the said 24th day of April, with force and arms, &c. in the parish aforesaid, and county aforesaid, falsely, maliciously, subtilly, advisedly, devilishly, and traitorously did assemble, unite, and gather together, and then and there, falsely, maliciously, subtilly, advisedly, devilishly, and traitorously did consult, consent, and agree, our said sovereign lord the king to death and final destruction to bring and put, and the religion of this kingdom of England, rightly, and by

the laws of the same established, to the superstition of the Roman Church to change and alter, and the government of this kingdom of England to subvert; and that one Thomas Pickering, and one John Grove, should kill and murder our said sovereign lord the king; and that he the said James Corker, together with the said Thomas White, John Fenwick, William Harcourt, John Gavan, and Anthony Turner, and other false traitors, against our said sovereign lord the king, to the jurors unknown, should therefore say, celebrate, and perform, a certain number of masses, then and there amongst themselves agreed on, for the soul of the said Thomas Pickering, and for that cause should pay to the said John Grove a certain sum of money, then and there amongst themselves agreed on; and that he the said James Corker, together with the said Thomas White, John Fenwick, William Harcourt, John Gavan, and Anthony Turner, and other false traitors to the jurors unknown, in further prosecution of the treasons and traitorous consultations and agreements aforesaid, afterwards, the said 24th day of April, at the parish aforesaid, in the county aforesaid, falsely, subtly, advisedly, maliciously, devilishly, and traitorously, did severally each to the other engage themselves, and upon the sacrament traitorously did swear and promise, to conceal, and not to divulge the said most wicked treasons, and traitorous compassings, consultations, and purposes aforesaid amongst themselves had, traitorously to kill and murder our said sovereign lord the king, and to introduce the Romish religion within this kingdom of England, and the true Reformed religion within this realm, rightly, and by the laws of the same established, to alter and change. And that he the said James Corker, together with the said Thomas White, John Fenwick, William Harcourt, John Gavan, and Anthony Turner, and other false traitors to the jurors unknown, in further prosecution of their said treasons and traitorous intentions and agreement aforesaid, afterwards, the said 24th day of April, at the parish aforesaid, in the county aforesaid, falsely, subtly, advisedly, maliciously, devilishly, and traitorously, did prepare, persuade, excite, abet, comfort and counsel four other persons to the jurors unknown, subjects of our said sovereign lord the king, traitorously our said sovereign lord the king to kill and murder, against the duty of his allegiance, against the peace of our sovereign the king, his crown and dignity, and against the form of the statute in that case made and provided."

Upon these several Indictments they have been arraigned, and thereunto have severally pleaded Not Guilty, and for their trial put themselves on God and their country, which country you are. Your charge is to enquire, whether they be Guilty of the high-treason whereof they stand indicted, in manner and form as they stand indicted, or Not Guilty, &c.

Mr. Edward Ward. May it please your

lordship, and you gentlemen of the jury; sir George Wakeman, bart. William Marshal, and William Rumley, the prisoners at the bar, stand indicted; for that they as false traitors against our sovereign lord king Charles the 2nd, their supreme and natural lord, not having the fear of God before their eyes, did traitorously endeavour and intend, with all their strength, the peace and tranquillity of this kingdom of England to disturb, and the worship of God in the same rightly, and by the laws of the same established, and the government of the kingdom in all its parts well instituted and ordered, to subvert and overthrow, and sedition and rebellion within the same to move and procure, and to bring and put the king to death and final destruction; and to that purpose the 30th of August, in the 30th year of the king that now is, they did falsely, maliciously, subtly, advisedly, and traitorously compass, imagine, intend, and devise, those things that I have enumerated to you; that is, sedition and rebellion in the kingdom to move, the peace and tranquillity of the same to disturb, the worship of God to overthrow, and the king from his royal state, title, power and government wholly to depose, and to put the king to death and final destruction, and the religion at their wills and pleasures to alter, and to introduce the Romish superstition, and war within the kingdom to levy against our sovereign lord the king. And to accomplish these treasons and purposes, they the prisoners at the bar, with other false traitors unknown, the day and year beforementioned, did assemble and meet together, and did then and there consent and agree to put the king to death and final destruction. And to persuade Marshal and Rumley to these treasons, the said sir George Wakeman promised his assistance; first, to subvert the government, and then to alter the religion to the Romish superstition, and traitorously undertook to kill the king: And he did receive for that purpose, from the pretended provincial of the Jesuits in England, who claimed an authority from the see of Rome, of granting out commissions, a commission which constituted him Physician-general of the army; which army was to be raised for the levying of war against the king, and the subversion of the government and religion: That he read this commission, that he kept it in his possession, that he consented to it, accepted it, and intended to execute the employment, when their designs were accomplished. The Indictment further sets forth, that Marshal and Rumley, and other false traitors agreed to pay the sum of 6,000*l.* for the carrying on and effecting of this treason; and this is laid, to be against the duty of their allegiance, against the king's peace, crown and dignity, and against the form of the statute. To this indictment they have pleaded not guilty; if we make out these crimes against them, or any of them, you are to find them guilty.

There is also another indicted, that is James

Corker; For that he is a false traitor against the king, and withdrawing his allegiance, and due and natural obedience, which he owed to him, as his sovereign, together with other persons there mentioned, White, Fenwick, Harcourt, Garan, and Turner, did intend to overthrow the religion, to subvert the government, and to do all those treasons that I have here enumerated, and that they did the 24th of April, in the 30th year of this king, at the parish of St. Giles in the Fields, in your county, compass and imagine the king's death, levying of war, and those other things; and in order thereunto, they did contrive that Pickering and Grove should kill the king, and that Corker and the others should say masses for the soul of Pickering, and should pay Grove a sum of money. That to this they plighted their faith, and received the sacrament upon it: and that Corker and the others, the day and year aforesaid, traitorously persuaded, excited and abetted four other persons to murder the king. To this he hath pleaded Not Guilty; if we prove him Guilty of any of these things, we hope you will find it so.

Sir Robert Sawyer. My Lord, and you Gentlemen of the Jury; The prisoners at the bar with whom you are charged, stand indicted as principal actors and instruments of that late most catholic and bloody plot some time since discovered; and I hope, by the blessing of Almighty God in a great measure prevented. The design, gentlemen, was against the King and the Church; both Church and State were too little a sacrifice to be offered up to the universal supremacy of Rome. They well knew, gentlemen, that so long as God should preserve the life of our prince, and as long as those legal pales, wherewith the Church of England is encompassed, did but continue firm, neither the gates of hell nor Rome could prevail against it. And I wish that all Protestants were of the same mind.

I shall not enter now into any large discourse of it, nor trace the several steps of this Plot, which is so well known to all men of this nation at this day, but only touch upon those parts of it that do concern the prisoners now at the bar, unless they shall give me occasion to recur to any former passages. Gentlemen, we shall make proof to you, that the 24th of April, 1678, there was a very great consult of a numerous company of Jesuits here in London; and there was the foundation laid, or at least the execution was then determined of bringing this plot to its accomplishment. To this consult we shall make it appear, that the gentlemen at the bar were privy and consenting to it. The king must die, that is resolved on, and you have heard formerly of the several ways that it was to be acted; some persons were designed to shoot him, these have received their trial and condign punishment; then there was another set, and they were to stab him, and some of these have been brought to justice too; but then there was a third sort,

(for they did invent all the imaginable ways of death) and that was poisoning; and that will come principally before you at this time. And they had chosen out a very proper instrument for it, a gentleman whose experience rendered him able, and whose near relation to and dependance upon the royal family, gave him a great opportunity to commit that horrid crime. But, gentlemen, though his persuasion might go a great way, yet he would not do it gratis, and thereupon he must be hired for a great sum of money, not under 15,000*l.* and then he undertook that great employment.

We shall prove to you, that this was his bargain, that part of his wages he had received, for he would be sure of something in hand before the work were done. We shall make it appear, gentlemen, that he was privy also to the consult (for I apply myself at present peculiarly to him) and approved of it. And as a farther reward, besides that of money, he was to be preferred to be physician-general of the army that was then to be raised, that employment was designed for him; nay, he accepted of the commission, as we shall endeavour to prove to you.

We shall also prove, that the other gentlemen at the bar, the other malefactors that stand there, were privy to the great consult of the death of the king. That there was 6,000*l.* which was to be furnished by the Benedictine monks; for though the Jesuits were the great engineers, yet all the other orders were to contribute, and 6,000*l.* was to be furnished by them. And in the course of our evidence we shall give you several instances which will concern all these particular prisoners now at the bar; and one truly that there was such a design of poisoning, which is very remarkable, and that was from a very great engineer that hath suffered already, and that was Mr. Ireland; and wherein I must desire that you would observe another thing that falls out very materially, that though Mr. Ireland, at the time of his death, and all along, disowned that he was here in London in August, and with great asseverations did affirm it, it will appear by the course of our evidence that he was here in London then, and had frequently discourses that it was an easy matter to take off the king by poison: and for that purpose do I mention it to you as an instance that poison was one of the great ways that they intended to murder the king by. And, gentlemen, you will collect from that evidence, what credit is fit to be given to the words of such dying men, and whether living witnesses that are upon their oaths, are not rather to be believed, than those whose concern it is for more reasons than one to persuade the people that they are innocent. And you will likewise collect that those who have lived in the sin of committing such horrid crimes as these are, will not stick to protect that same church (which they would propagate by those crimes) by denying the plainest truth. We will not trouble you any further with the opening of the evidence, because the witnesses are

many, and their testimony various; but we shall call our witnesses, and let them tell it you themselves.

Mr. Ward. Call Dr. Oates, Mr. Bedlow, Mr. Dugdale, Mr. Jennison, and Mr. Praunce, (who were all sworn, and Mr. Dugdale set up.)

Sir Robert Sawyer. Gentlemen, we call first Mr. Dugdale to give you a general account of the plot, not so much for the proof of the things here charged particularly on the prisoners, as the general design.

Mr. Ward. Pray, Sir, speak your knowledge of what you know concerning the plot in general.

Dugdale. I have for these seven years known something of it, but nothing particularly till within these two years. About two years since it was communicated to me by Mr. Ewers, Mr. Gavan, Mr. Peters, Mr. Lewson, and some other priests, which I cannot now remember their names, and they did persuade me to be of the management of the business, for the carrying on of the design, for the introducing their religion, and for the killing of the king and the duke of Monmouth; both those two things were communicated to me, upon my oath, by Mr. Gavan, Mr. Ewers, Mr. Peters, Mr. Lewson, and my lord Stafford.

Mr. Justice Atkins. What, Mr. Gavan that was executed, do you mean?

Dugdale. Yes, he was the man, I have had several packets of letters which concerned the plot: all the letters that came from Mr. Harcourt, or from any others concerning the plot, were directed to me: I have had sometimes eight, sometimes nine, sometimes more letters at a time, but I never saw any, almost, but they all tended to the carrying on of this design.

L. C. J. (Sir W. Scroggs) Did they shew you these letters, or did you open them?

Dugdale. I did open several of them, a great many, and some of them that I could not handsomely seal up again, I kept.

L. C. J. They did not know you opened them?

Dugdale. No, they did not all the time.

L. C. J. To what purpose did they write?

Dugdale. My lord, they were to give instructions to Mr. Ewers how he should manage the affairs for carrying on the design, how he must go about for the raising of money, and for the engaging the gentlemen in the country, as particularly Mr. Gerard of Hilderson, and Mr. Howard of Horecross, and sir James Simons, and one gentleman that is dead, one captain Atherley, and several other gentlemen were engaged in it; to be officers when they had accomplished their business of killing the king.

Sir R. Sawyer. You say they were to be officers; what, were they to be military officers, or what?

Dugdale. Yes, they were to be military officers.

Sir R. Sawyer. Was there an army to be raised?

Dugdale. Yes, there was an army spoken of to be raised.

Sir R. Sawyer. By whom?

Dugdale. There was money ready in July last, for I saw acquittances that came from St. Omers that the money was paid. But then there was caution given to be sure not to make any rumour of arms or any thing, till the king was dispatched.

L. C. J. Did they write that in a letter?

Dugdale. They writ that in a letter directed to me.

L. C. J. To you?

Dugdale. Yes, to me.

L. C. J. Who writ that letter?

Dugdale. My lord, truly I cannot be certain at present who it was; but upon recollection I can, may be, remember who it was; but it contained that there should be caution given to all, to be sure that none should mention arms, or any thing, till the king was dispatched.

Sir R. Sawyer. From whence did that letter come?

Dugdale. From Mr. Harcourt, I am certain, and in Mr. Grove's packet; but I am not certain of the person that writ the letter, but I can recollect hereafter, perhaps, who it was.

L. C. J. Did it come from beyond sea, or London?

Dugdale. It came from London, but I suppose it came thither from beyond sea.

L. C. J. The letter came to you, you say; was it dated from any place, and what?

Dugdale. I am not certain whether it was; there was several letters that came from all parts, some from St. Omers, some from Paris, some from Rome.

Sir R. Sawyer. Pray what do you know of any correspondence that was between your principal agents in Staffordshire, and those conspirators here at London?

Dugdale. Yes, there was a correspondence between them.

L. C. J. Between whom? Name them.

Dugdale. Betwixt Mr. Ewers, Mr. Gavan, and Mr. Vavasor, these were in Staffordshire; and betwixt Mr. Ireland, Mr. Harcourt; Mr. Fenwick and Mr. Grove, these I know.

L. C. J. Where were these last?

Dugdale. In London these persons were, they did write constantly three times a week letters into Staffordshire about this business.

L. C. J. But pray was there any thing mentioned in any of these letters concerning killing the king?

Dugdale. Yes, there was.

L. C. J. Was there any thing plain of that in those letters?

Dugdale. There was in one from Mr. Whitebread.

L. C. J. What did that letter say?

Dugdale. There was one from him that did give a caution to Mr. Ewers, that he should be

sure to choose no persons but such as were stout and hardy, or to that effect.

L. C. J. To do what?

Dugdale. To kill the king.

L. C. J. Was that expressed in the letter?

Dugdale. Yes, my lord, it was.

L. C. J. And did they write that they should choose hardy persons to kill the king? Was that the subject of it?

Dugdale. Yes, my lord, it was.

L. C. J. Did it come by the common post?

Dugdale. Yes, my lord, it did; but they had devised it so, that there was care taken they should not be discovered, they would set but two letters of their names to them, and they were directed all to me, so that I was to bear all the danger.

Sir R. Sawyer. How was the direction? Was it directed plainly to you on the out-side?

Dugdale. Yes, it was; and if it were discovered, I was sworn by Mr. Ewers to deny it, and then they could not be discovered.

Just. Atkins. Did they give you any oath to that purpose?

Dugdale. Yes, I was sworn ten times at least to secrecy, and promised it on the Sacrament.

Sir R. Sawyer. Besides what came in those letters, had you any discourse with any touching killing the king?

Dugdale. Yes.

Sir R. Sawyer. With whom?

Dugdale. With Mr. Gavan, Mr. Ewers, Mr. Lewson, and my lord Stafford.

L. C. J. And would they have persuaded you to have done it?

Dugdale. Yes, I was to have been employed as an actor in it, either to have taken his life away, by shooting; or by stabbing, or some way.

L. C. J. Did they propose it to you, and how, in what manner would they have you do it?

Dugdale. No, my lord, I was not told absolutely in what manner; but I was directed to come to London, and I should have instructions about it there.

L. C. J. Tell us again who they were that did solicit you?

Dugdale. Mr. Ewers, Mr. Gavan, Mr. Peters, Mr. Lewson, and my lord Stafford.

Just. Atkins. My lord Stafford you say?

Dugdale. Yes, I said so before, my lord.

L. C. J. They engaged you in the business in general, you say, and you were to have directions about it at London, that is that you say?

Dugdale. Yes, my lord, Mr. Ireland was to take care of me there.

Sir R. Sawyer. Pray, Sir, had you discourse of the several ways, what ways were to be taken?

Dugdale. I had no particular way mentioned, but I was told that it was easy to be done by shooting or stabbing.

L. C. J. Did you ever come to London upon that errand?

Dugdale. No, never.

L. C. J. When they had engaged you to do the thing, why did not they send you about it?

Dugdale. I was not to come till October.

L. C. J. When was it that you were engaged first?

Dugdale. I had particular intimation of the matter of the Plot about two years before, but I was not to come up till October.

L. C. J. Which October?

Dugdale. Last October.

L. C. J. Why, you were engaged a great while before, how chanced you were not to come up till October?

Dugdale. I was engaged a year and a half before, but it was not positively then said to me, that I was to be instrumental in killing the king, till that time, which was about July, when my lord Stafford came down, and I was to come up in October.

L. C. J. I thought you had said that you were engaged in it a year and half before.

Dugdale. That was only in the Plot in general.

L. C. J. Was there no time appointed for the killing the king then? When was it that you were first engaged to be an instrument to take away the king's life?

Dugdale. Two years ago I was spoke to about the Plot, but I was not particularly assigned till the last summer, and then I was appointed to come to London in October.

L. C. J. What said they then to you?

Dugdale. My lord Stafford did offer me 500*l.* he told me I should have that for a reward at present, and if things did go on, I should have a better reward when the thing was accomplished, but this was for my present encouragement.

L. C. J. When were you to have the money?

Dugdale. When I came to London.

L. C. J. And why did not you come to London then?

Dugdale. I was to come to London; and the Plot was broke out and discovered first.

Mr. Ward. Pray, do you know of any letters about the death of sir Edmundbury Godfrey?

Dugdale. Yes, there was a letter came down to my lord Aston's, it was directed to Mr. Ewers, and it contained in it, 'This very night sir Edmundbury Godfrey is dispatched:' those were the words of the letter.

L. C. J. What night was that?

Dugdale. I have well remembered it since, and it was Saturday night, which was about the 12th of October, or thereabouts, as I remember: it had those words, 'This very night sir Edmundbury Godfrey is dispatched;' and it went on with more things relating to the Plot, which I cannot particularly now remember; and I caught Mr. Ewers at the reading of it, and said I to him, 'Do you think this is the way to have the Design succeed? if this do not overthrow the Plot, I will be hanged.' 'Not so,' said he, 'be patient, and do not mistrust it, he was a man that was used to punish debauched persons, and it will rather reflect upon them than us.'

L. C. J. Did that letter come to your hands?

Dugdale. Yes, it did, but it was writ to Mr. Ewers.

Just. Atkins. What day did it come to you?

Dugdale. Upon Monday morning.

Just. Atkins. When was it writ?

Dugdale. It was writ the Saturday night before.

L. C. J. Did Mr. Ewers shew it you? or did you break open the letter?

Dugdale. Mr. Ewers shewed it me for an encouragement, that one of our enemies was taken out of the way.

Just. Wyndham. Did you report it to any body?

Dugdale. Yes, to the parson of the town, and a relation of my lord Aston's.

L. C. J. What was his name?

Dugdale. One Mr. Sandwich and Mr. Philips; said I, 'Do you not hear of a knight, a justice of Westminster, that is killed?' 'No,' said they, 'we hear nothing of it:' but it seems Mr. Sandwich went to dinner to—— and there he did report it.

L. C. J. Why did they look upon sir E. Godfrey as such an enemy to them?

Dugdale. They had intrusted him before, but he began to be strict with Dr. Oates, searching and prying into all the whole concern, as Mr. Ewers told me (for I knew no more than he informed me of) so they thought good to take him off.

Sir R. Sawyer. Gentlemen, will you ask him any questions?

Corker. I would have been glad to have heard what he said, but I could not hear the tenth part.

Sir R. Sawyer. Gentlemen, there is nothing that does particularly reflect upon you at the bar, but is only to prove the general design of the Plot.

Sir George Wakeman. It is the worst made out that ever I think was trial.

Dugdale. If there be any more questions, that your lordship or the Court will be pleased to ask me, I will be sure to answer them.

L. C. J. I will tell you the effect of what he says, and that is this; he speaks in general, that there was a Plot to bring in Popery, and in order to that, the best way was to kill the king; and to that purpose, there were several letters sent weekly into Staffordshire, and very often directed by the cover to him, wherein were seven or eight several letters, as from Ireland, and Harcourt; and Grove, to people that were in Staffordshire; that is, to Ewers, and Lewson, and Vavasor; and many times they did write concerning the going on with this Plot of killing the king, that they must use great secrecy in it, and makes mention what officers they should have for an army to support that matter, when they had done; they engaged him particularly first, about two years ago, to be one in it, but more precisely in June or July last was twelve month, and he should have gone, he says, in October after, up to London, in order to it; and there he should have directions

from Ireland, how he should manage himself. And he gives you an account, that my lord Stafford promised him he should have 500*l.* as part of his reward, and when the work was done, he should be better gratified; and he says, he did intend to have gone up in October to this purpose, but the Plot broke out, and he was prevented.

Sir R. Sawyer. Pray, Mr. Dugdale, you have been formerly examined, did you hear any thing of a massacre? or of any particular persons to be murdered, besides the king and duke of Monmouth?

Dugdale. I do not remember any in particular, but they two; but in general, all protestants they intended to cut off.

Mr. Ward. All protestants?

Dugdale. Yes.

Just. Atkins. Pray, Sir, what did induce them to have so much confidence in you? Had you any such zeal for their religion?

Dugdale. Yes, insomuch that they thought I was a priest in the country.

Just. Atkins. Had you been free of your purse? did you give them any money?

Dugdale. Yes, I gave them for this, and for the praying for my soul, the sum of 400*l.* which was secured upon a deed of land; and I promised them another 100*l.* when they made moan for the want of money; and when Mr. Peters said if they did not make more haste with their contributions, they should be at a great loss: And Mr. Gavan promised me, I should be canonized for a saint.

L. C. J. When had you given the 400*l.*

Dugdale. I had given it them in money, it was upon a deed of land, which was conveyed to Mr. Gerrard, and was to be sold for the raising of that money.

Corker. Mr. Dugdale, you make mention of a certain letter sent from London here, from Mr. Harcourt; but not Mr. Harcourt's letter, in which letter you say it was mentioned that the king should be killed, and that an army should be raised, and some such matters of grand design. Sir, don't you know from whom that letter came, I ask you?

Dugdale. I cannot directly at present call to mind the person's name, I may by and by, perhaps.

Corker. Then, my lord, I appeal to the court and beg the judgment of the court, whether a letter of that vast concernment about killing the king, the destruction of the nation, and the raising of an army, should be sent from a man that he himself does not, nor can tell his name, nor the place this letter came from. That a man should be so mad to send by the common post a letter of such vast concern, and yet neither the party to whom, nor the party from whom it came, be remembered.

Dugdale. I can give you satisfaction, as to some letters I have received, and I can tell you in particular from whence they came. One came from Paris to St. Omers, and so from St. Omers to London, and from thence by a special messenger to Tixall in Staffordshire;

and my lord Aston and Mr. Ewers read it one night in my sight, in the parlour.

Corker. Just now he said it was by a special messenger; before he said, the letters came by a common post.

Dugdale. I speak of another letter now, than those I spake of before.

L. C. J. He did, indeed, say before, that there was a letter as you repeat it, that had the importance of killing the king, but he could not particularly charge himself with the person that writ it, but, saith he, I can now remember another letter, that was sent by a special messenger, and he will tell you who that letter was writ by, and who it came from. From whom came it?

Corker. That was only to correct a former lie.

Dugdale. There was J. W. writ to it, and I suppose it was from sir John Warner.

L. C. J. Where was it dated? Whence did it come?

Dugd. There was one from Paris, it was first began at Paris where advice was first to be had, and assistance was promised, how it should be carried on, and they thought it was the best way, after they had killed the king, for the papists to give the first alarm, that it was those still king-killing presbyterians that had done that act, and that then the church of England men would be willinger to join with the papists to cut them off.

L. C. J. This was the substance of the letter?

Dugdale. Yes, this was the substance of the letter. And the letters from London said, they thought it good advice, and there were several lords in England set their hands to it, acknowledging it as good advice: And in that very letter there was an army mentioned, that there should be an army ready to cut off those that should escape having their throats cut.

L. C. J. Who brought that letter?

Dugdale. I do not know who brought it from London to Boscobel, but there was a special messenger brought it thence to Tixall, and his name was Carrington.

L. C. J. You say there were several lords set their hands to it; what lords were they?

Dugdale. I have formerly mentioned them, there was my lord Stafford, my lord Bellasis, and my lord Arundel.

L. C. J. To what purpose did they set their hands to it?

Dugdale. That they approved it as good advice.

L. C. J. Then, gentlemen, this is that he says, here is a letter that was brought by one Carrington, to my lord Aston's, and the substance of the letter was to justify the killing of the king, by the raising of an army, and that this letter came from St. Omers, and that it had the letters J. W. subscribed to it, which was supposed to be sir John Warner, and that this letter was looked upon by some at London, and that they, as approving of it, set their hands to it as good advice, and then sent it down into the country.

Corker. Was the letter dated from St. Omers? Was St. Omers writ, in the inside, what say you? Speak.

Dugdale. There were three letters, I say, that came in that packet from St. Omers; one came from Paris, another from St. Omers, and another from London.

L. C. J. And all these in one cover?

Dugdale. Yes.

Sir G. Wakeman. How could the same cover cover all those letters?

Dugdale. All these letters were covered in Grove's packet.

L. C. J. Here is the matter; he supposes there was a letter writ, first at Paris, and that is then sent to St. Omers; and then there was a letter writ there, by sir John Warner, or some of them, and sent to London, perused in England by the lords, and all sent in one cover into Staffordshire.

Corker. Your lordship makes sense of it, but he made none but contradictions, and said he did not know whence it came, nor who writ it. You say, sir, you were one of those to kill the king? pray when were you to kill the king?

Dugdale. In October, I was to have done it, when I came up.

Corker. My lord, here is a plot and design driven on several ways, to murder the king. Dr. Oates in his Narrative,* as I perceive, gives us a description of several contrivances that were made use of to commit this murder. He in all his descriptions, tells us only, as I take it, of three ways of killing the king, the one by Grove and Pickering, another by the ruffians, I know not whom, a third was by poison; now Dr. Oates, in all his relations, makes not any mention of a fourth design to kill the king, or of any other plot or design at London to kill the king; but he says, if Grove and Pickering miscarried, it was to be done by the four ruffians, and they miscarrying, it was to be done by poison, now comes he with a thing that never was thought of before, that Oates never gives any relation of.

L. C. J. What then?

Corker. He, my lord, tells us, that this was to be done in October, when all the other things that were to be done were past; and what, should they design to kill the king in October, when it was to be done before in July or August?

L. C. J. Look you, the first part of your objection, wherein you say he names but three ways of killing the king, what do you infer from that? that because this gentleman says there was a fourth, there was not. Dr. Oates told you as much as he knew of the matter, but he does not undertake to give you an account of all the plot or plotters in this affair. If you make any reasonable objection against Mr. Dugdale's testimony, I will allow it, but these inferences I must not. That this is a strange story of Mr. Dugdale's, because it is not part of Oates's discovery, is that a reasonable objection? But then for the latter part,

* See vol. 6, p. 1428.

that Dr. Oates says the king was to have been killed in July or August, therefore what should they think of killing him in October, he tells you, that in June and July they did engage him in the general plot, and first then to be instrumental in killing the king, but he was not to be gone till October to London to do it.

Corker. When the thing was done.

Just. Wyndham. No, no, because the thing was not done, or because it might miscarry by others, therefore he was to come then.

L. C. J. They could not tell when it would be done, or by what hand it would be done; therefore they were engaging as many as they could, provided the thing were not done.

Marshal. Amongst other things that seem to render his testimony suspected, there is one which is taken from the common practice of all men, in cases of like nature, for where there is danger in matters of concernment, men use to be very circumspect who they choose, and make choice of as few as possible; but now here is person after person, conspiring without end, and letters to this person, and to that person, and nothing is proved to be done upon it, so that here is the greatest confusion imaginable, an hundred of men, nay almost a whole nation are acquainted with it, when a few might serve the turn.

Sir R. Sawyer. Why do you say it was known to the whole nation, when it was so close a conspiracy?

L. C. J. North. You are at the bar; we do not object to what you say, as to the way of it, but as to the time that you deliver it in; it is the course, that you deliver your objections when the king's evidence is done; indeed, when the king's counsel have done what questions they have to ask of the witnesses, then you may ask them what questions you will, but for the observations that you would make by way of objection to the evidence, and as to their credit, you should reserve that to the last, when the king's evidence is done.

Prisoners. My lord we desire we may be allowed pen, ink and paper.

Mr. Recorder. (Sir George Jefferies.) Let them have it.

L. C. J. Indeed, there is one thing very considerable on your side, and it is fit there should be an account given of it. It is very strange, that a thing of that nature should be writ so plain, I mean the killing of the king, in a letter that should be sent by the common post; what say you to that?

Dugdale. Mr. Ewers did it for no other end in the world, but that they intended, if it should be discovered, all should be flung upon me, and I was sworn to deny it, and they were to go free.

L. C. J. What were the words of the letter?

Dugdale. In that of Mr. Whitebread's, it was contained downright plainly, 'he should choose such as were hardy, for the killing of the king.'

L. C. J. And how did that letter come?

Dugdale. By the common post.

VOL. VII.

Sir G. Wakeman. No man living can believe it.

Just. Pemberton. There was no mention of Ewers, on the outside, nor no name to it, was there?

Dugdale. No, none at all, my lord.

Just. Pemberton. No name to the letters?

Dugdale. Only the two first letters of their names.

Marshal. Would they, in such case, can any man think, be so mad as to venture their lives, and all, for they knew not what? Would the lords, whose names, he says, were subscribed to one of the letters, engage their lives and fortunes in the signing of a letter, wherein both were so much endangered, and commit it to such an hazard.

Rumley. Would they set their hands to such a letter, as they could not be certain into whose hands it might come? and he says, he does not know who it came from.

Just. Pemberton. Mr. Dugdale, was that letter by a common post, that the lords set their hands to?

Dugdale. No, it was by a special messenger.

L. C. J. Look you, gentlemen, the answer that he gives to your objection is this; You say it is strange, and indeed it is so, that such a design should be writ so plain in English, in a letter; but he says there was nobody in danger by it, but himself, for there was nobody could tell from whence it came, because only two letters of the name were subscribed; and, says he, it was directed to me only, and so I might have suffered, but Ewers name was not mentioned, to whom it was intended to go.

Rumley. Yet he says he does not certainly know who it came from.

Mr. Recorder. Gentlemen, you have your proper time for that, if you will make any remarks.

Justice Pemberton. Will you ask him any more questions? As for your arguments, you must not use them now.

L. C. J. North. But they have desired pen, ink, and paper; is it given to them?

Mr. Recorder. You must allow the prisoners pen, ink, and paper, if they desire it.

L. C. J. Ay, all of them, if they would have it. [Which was done.]

L. C. J. Mr. Dugdale, this letter that came from Whitebread, it came with others, did it not?

Dugdale. Yes, my lord, it did.

L. C. J. The cover was directed to you, was it not?

Dugdale. Yes, my lord, it was.

L. C. J. Had the other letters particular directions to particular persons?

Dugdale. Every letter was directed to me.

L. C. J. What, besides the cover?

Dugdale. Yes, besides the cover.

L. C. J. Who were you to communicate them to?

Dugdale. They had a particular mark that they were known by, there was always a black cross upon them. I was to give them to Mr.

2 R

Ewers, and he was to communicate them to others concerned.

L. C. J. What was upon the other letters?

Dugdale. I had no letters but what I delivered to Ewers.

L. C. J. Was he the only man that they were delivered to?

Dugdale. Yes, my lord.

L. C. J. And he distributed them as he pleased, did he?

Dugdale. Yes.

L. C. J. Had you more marks than one?

Dugdale. No, my lord.

L. C. J. So you were only agent between Mr. Ewers and them, and none else?

Justice Wyndham. They were all directed to you, how did he know who they were to go to?

Dugdale. I was to deliver them to him, and he dispersed them to the several persons, and he rid constantly abroad about it.

L. C. J. Were there several marks to know who they were to?

Dugdale. My lord, he knew, by conversing with them, their several hands, and so could tell, by what was written, what was intended, and what the business was, and for whom.

Corker. There must have been several transactions, and a man must have received several letters, before he knows another's hand.

Justice Pemberton. Will you ask him any questions? you must not argue upon it yet.

Rumley. How many letters came to you, pray, from beyond sea?

Dugdale. An hundred, I believe, in two years time.

Rumley. From how many several persons? Methinks you should produce some of those letters.

Dugdale. There were letters from sir John Warner very often. I cannot remember all.

Rumley. Methinks you might be more ready in your evidence, than upon every turn to say, You cannot remember. Have you none of those letters?

Dugdale. I burnt those letters which I kept, before I intended to discover the Plot; but in a multitude of letters, it is hard to tell particulars, I tell you what I remember of them.

Corker. You make mention of killing the king, and raising an army, and these were specified in two letters. In those matters which concerned the raising of an army, were there only letters, no commissions sent, for the raising of forces? Did you never see any of the officers? Did you never communicate with any of them?

L. C. J. Did you see any commissions first?

Dugdale. No, I never did see any of them.

L. C. J. Did you ever talk with any that were intended to be officers?

Dugdale. Yes, I have.

L. C. J. Name them.

Dugdale. There was sir James Symons, and Mr. Howard, I have talked with them.

L. C. J. With them two?

Dugdale. And with one captain Auderley, that is dead.

Corker. Why, there are three officers towards the raising of several thousands of men.

Justice Pemberton. Look you, Mr. Corker, you must direct yourself to the court, and propose your questions here.

Corker. Mr. Dugdale tells us, that for the promoting of this design, that he gave 400*l.* and with the same breath says, he was to receive 500*l.* Methinks this is to do and undo.

Justice Dolben. Pray keep this arguing of yours till the last.

L. C. J. North. The court hath told you already, this is not proper for you. It is true, you must have liberty to ask questions, because there are some questions that else may be forgotten, and the opportunity will be lost: but when you have asked those questions, make your own observations upon them in private to yourselves, and afterwards it will be time for you to argue upon it to the jury, when the king's counsel shall have done their evidence: but now to make these inferences will do you little service, and cannot be permitted.

Dugdale. My lord, I desire to answer it now. It was my lord Stafford that promised me the money, and I went presently to know of Mr. Ewers what it meant, because I had given my money before, and my lord Stafford did not, I suppose, know any thing of it.

L. C. J. How long was it before that you gave the money?

Dugdale. It was two or three years before; at the beginning, when the Plot was first discovered to me, for the introducing of their religion.

Justice Atkins. He was a great zealot, but my lord Stafford did suppose the money might quicken him.

Dugdale. It was for my encouragement, and I should have a greater reward after.

Corker. He received the money, I suppose, when he was in prison for debt, rather than for any thing else.

L. C. J. North. You may observe that by and by.

L. C. J. Look you, this is what he hath said, it is all but in general, and he does not name any of you four: but here was a general contrivance, he says, to bring in popery. I am afraid that is too true; and as the best way to effect that, they resolved to kill the king; and I am afraid that is too true too; for it was indeed the likeliest way.

Then stood up Mr. Praunce.

Mr. Ward. Give the court an account, only in general, of what you know of any design that was at this time?

Praunce. It was a fortnight or three weeks before Michaelmas I went to one Mr. Ireland's chamber, in Russel-street, where was Mr. Fenwick and Mr. Grove, and there they were discoursing of 50,000 men that were to be raised, for the settling of the Roman Catholic religion, and I asked Mr. Fenwick, how that could be done? And he said, Very easily, in a short time. Then I asked him, What poor trades-

men should do? and he said, I need not fear, for I should have church-work enough, to make crucifixes, basons and candle sticks.

Justice Atkins. You are a working goldsmith?

Praunce. Yes. Then I asked, who should govern them? And he said, my lord Powis, my lord Stafford, my lord Arundel, my lord Bellasis and my lord Petre. Two or three days after that, Grove came to my shop to buy some spoons for a christening; and then I did ask him, what office he was to have? He said he did not know, but he said, that my lord Bellasis, my lord Powis, and my lord Petre, had commissions to govern the army. And after that, there was one Mr. Paston in Duke-street, I went to him, to know how I could direct a letter; and after a little time, we fell into discourse concerning the affairs of the times. He told me, the lords had given out commissions, one was to sir Henry Bennyfield in Norfolk, another was to Mr. Stoner in Oxfordshire, and another was to Mr. Talbot of Longford. He said that they had given commissions for to raise an army.

Mr. Ward. What was that army to do?

Praunce. It was to settle the Catholic Religion.

Mr. Ward. Did you hear any thing mentioned of killing the king?

Praunce. Yes, I did.

L. C. J. Who told you this that you speak of about the commissions?

Praunce. Mr. Paston, my Lord, in Duke-street.

L. C. J. Was he a priest?

Praunce. No, but he kept some in his house, and they said mass every morning.

L. C. J. Is he of any profession?

Praunce. He was a counsellor, but doth not practise now, he hath an estate of 5 or 600 a year.

L. C. J. Now go on, and say what he told you.

Praunce. He said, there were commissions given out to sir Henry Bennyfield and one Talbot of Longford.

L. C. J. When was it he told you this?

Praunce. It was in August last.

L. C. J. And did he say they had commissions sent to them?

Praunce. Yes, they had them in the country, where they were to raise their troops: I heard of more, but I only remembered those three.

Mr. Ward. Do you know one Messenger?

Praunce. Yes.

Mr. Ward. What discourse had you with him?

Praunce. My lord's butler told me——

L. C. J. Who told you?

Praunce. My lord's butler.

L. C. J. What lord?

Praunce. My lord Arundel. He waited then on one Sheldon, that was Almoner to the dutchess of York. He told me, That Mr. Messenger was to kill the king and he was to have

a good reward for the same. Soon after I was going over Lincoln's-Inn-Fields, and met with Mr. Messenger, and asked him, Why he would kill the king? He seemed to be surprised, and starting back said, Who told you that? Said I, your butler told me. Oh, said he, we are quite off of that now: but then I was going away, and he called me back, and asked me, if I would go and drink with him? No, said I, I cannot stay at this time. However, pray said he, keep counsel, for we are off that now.

Mr. Ward. Will you ask the witness any questions?

Corker. Yes, my lord. Those commissions you speak of, when were they sent; in August?

Praunce. No, I do not say so; but that Mr. Paston told me of them in August. I cannot tell the day.

Sir R. Sawyer. If you observe it, gentlemen, he only tells you what some of the priests and persons of your religion acquainted him with; not any thing particularly against you.

Mr. Ward. Then next we call Mr. Jennison. Who stood up.

Sir R. Sawyer. Mr. Jennison, pray give the court an account of what you know of any design in hand, or what discourse you had with any person about such a thing.

Jennison. Sir, in the month of June 1678, I was at Mr. Ireland's chamber.

Sir R. Sawyer. Where, sir?

Jennison. In Russel-street, next the White-Hart. And there arose a discourse about religion and some hopes there were, he said, that the Romish Religion should be publicly owned again in England; and when I came in, I remember Mr. Ireland did say there was only one in the way, that stopped the gap, and hindered the Catholic religion from flourishing in England again; and said, it was an easy matter to poison the king.

L. C. J. Who was by, pray, when he said so?

Jennison. His sister was by.

L. C. J. Name her, sir.

Jennison. Mrs. Anne Ireland.

L. C. J. Who else?

Jennison. None else.

L. C. J. Then there was only you, and Ireland, and his sister. And you say, that they were discoursing concerning their hopes of bringing in Religion, and Ireland said, there was but one in the way, and that it was not an hard matter to poison the king.

Jennison. Yes, my lord; and so I not knowing any thing at all of the plot, or imagining the design, did answer, Perhaps it may be done, but it would be a very horrid thing if it should. Then Mrs. Ireland did rebuke her brother, and asked him, Why he talked so? and then he answered with some salvo, or other, That he did not think it ought to be done. Then I pursued the discourse about religion, and told him, I thought it would never come in by violence, and that it was a great scandal to religion for the professors of it to propagate and promote it by any such ways: And then I put him in

mind of the Gunpowder-Treason, of the ill success it had, and the great injury it did to the cause. He answered, that was only a state trick; and an invention of my lord Cecil's.

L. C. J. Ay, they do say so, I know; were you a papist then?

Jennison. Yes, my lord, I was.

L. C. J. Are you one still?

Jennison. No, my lord.

Ward. Mr. Jennison, were you with him again at any time? and what time was it that you met him, as you remember?

Jennison. The 19th of August, after I came from Windsor.

L. C. J. Where did you see him?

Jennison. At his own chamber in Russel-street.

L. C. J. How do you so precisely remember the day, that it was the 19th of August?

Jennison. I remember it by this; the beginning of August I went to Tunbridge with Mr. Tonstall and another gentleman, and there I staid till the 14th, when I came to town, and staid two or three days, and on Saturday in the afternoon I went to Windsor to take my leave of Mr. Bowes, being to go down into the North; and there I staid all Sunday, and came back again on Monday morning, and came to town about twelve o'clock the 19th day, as I have considered it since it was, and a Monday.

L. C. J. And then you went to Ireland's chamber; did you?

Jennison. Yes, then I went to Mr. Ireland's chamber.

L. C. J. By the oath you have taken, because it is very material, not to your cause, but it shews how fit it is that the world should know with what truth or falshood these men dare die, and this man did in particular. It was affirmed by him to the very last of his breath, that he was never here in London after the 3rd of August, till some time in September, but was all the while in Staffordshire; and they did at the last trial produce sir John Southcot, and his coachman, and his lady, and I know not how many other witnesses, to give an account where he was from the 3rd of August, all along till the middle of September; and they testified that they kept 16 days together in his company; and then they produced people in Cheshire to say, that they saw him there. Therefore I do now ask you upon your oath, are you sure that you saw Ireland here the 19th of August?

Jennison. Yes, my lord.

L. C. J. Do you swear that positively?

Jennison. Yes, my lord, I do.

Sir R. Sawyer. He will tell you the discourse he had with him then.

Jennison. After that I came to Mr. Ireland's chamber, I understood he was newly come out of Staffordshire. And he pulled off his boots while I was there upon the frame of a table, or else upon a jack, I cannot positively tell which, but I believe it was on a frame of a table. I asked him how all our friends did in Stafford-

shire? He told me, very well, and that they would be glad to see me there. Then he asked me whence I came, and where I had been? I told him I had been at Windsor. He asked me, what news? How the court diverted themselves? I told him, I understood his majesty took great delight in hawking and fishing, and chiefly in fishing, and used to go out very early in the morning, accompanied only with three or four persons of quality.

L. C. J. Did he ask you what company he had? Or did you tell him of your own accord?

Jennison. No, I think I told him of my own accord, that the king went out very early, and had but little company with him. Lord, said he, I wonder the king should go so thinly guarded, he were easily taken off, I wonder he should go so open. Said I, God forbid, sure nobody would be so wicked; and then he qualified it by some expression; so that at that time I made no ill reflection upon it, till after the plot broke out, and then discoursing of it to my father and my sisters, I said, I wish it be not true, pray God there be nothing in this plot, because of the discourse that happened between Mr. Ireland and me. It is very suspicious, said I.

Sir R. Sawyer. At that time had you any discourse whence he came, and about his weariness?

Jennison. He said he came out of Staffordshire, and came post. I understood he came very early that morning. I told him that scholars, such as he, would rather choose to come upon an ambling horse, and that I was weary myself.

Sir R. Sawyer. Were you very well acquainted with Mr. Ireland that suffered?

Jennison. Yes, very well.

Sir R. Sawyer. Are you sure he was in London the 19th of August?

Jennison. Yes, and I talked with him then.

L. C. J. How long had you known him before?

Jennison. A year and a half.

Sir R. Sawyer. Pray when did you go out of London to the north? What time did you go away?

Jennison. I went the 4th of September, as the coach-book will make it appear.

L. C. J. The evidence they gave was, that he did not come to town till the 13th of Sept. but he was gone the 4th it seems to the north, and that is before that time. Well, will you ask him any questions?

Corker. Mr. Ireland had been in Staffordshire? Had not he? for the 19th you say he came to town, I do not well remember, but the design of the ruffians of killing the king, about which Oates speaks, was before the 19th, at the consult of which Ireland was so grand an instrument.

L. C. J. That was in May, was it not?

Corker. No, that of the ruffians was in August, as he says.

Sir R. Sawyer. Will you ask him any ques-

tions? Look upon him; you see how creditable a witness he is.

Corker. Did you, pray Sir, leave your religion, and make this discovery before the pretended plot came out? When did you leave your religion?

Jennison. About three months ago.

L. C. J. He told you that as soon as the plot broke out, said he, I told my sisters and my father of it, and said, I pray God this plot have not more in it than we are aware of, for I had some discourse with Mr. Ireland, which I took no notice of then, because he qualified it at that time, and said it was not lawful, and did make nothing of it then, but now it runs much in my mind.

Corker. This he says, but this man did not leave his religion, nor make this discovery till it appeared advantageous to him so to do.

Recorder. It is an observation you make, but it had been well if you, and all of that persuasion, would have left it when you saw what it led to.

L. C. J. I know not what advantage you mean, nor do I see any colour you have to say so, for they say that this gentleman's father is one of 1,000*l.* a year, and he is his eldest son.

Corker. Are you your father's eldest son?

Recorder. There is an elder brother, my lord, but he is a priest.

L. C. J. Is your elder brother a priest?

Jennison. My lord, I do not know that, he is in Newgate about it.

L. C. J. It is reported that he is so?

Jennison. My lord, I don't know it of my own knowledge.

Corker. He does not know it, and therefore he is not the heir, and therefore the advantage of his estate is not such, but that he might lay hold of this discovery.

Sir R. Sawyer. I hope by and by, gentlemen, you will make a better defence than this.

Justice Pemberton. What you say should be by way of question proposed to the Court.

Recorder. But you take it upon your oath that you saw Ireland the 19th of August? Was that after you met with Mr. Bowes?

Jennison. I did not meet with Mr. Bowes.

Recorder. How long after you had left him was it?

Jennison. I did not see him there, I went to see him, but he was not there.

L. C. J. But he says precisely that the 19th of August he went to Mr. Ireland's chamber, where he saw him pluck off his boots, and talking as if he had come out of Staffordshire, post, so that indeed he was in Staffordshire, but not all that time he said he was.

Ward. Then pray call Mr. Bowes. Who was sworn.

Sir R. Sawyer. Pray, Sir, will you give the Court an account, when you saw this gentleman, and about what time he went out of town?

Bowes. My lord, I saw him in August, the beginning, or about the middle of August, in Tunbridge, before my coming to town.

Sir R. Sawyer. Pray when did he leave this town? when did he go out of town?

Bowes. I cannot point blank tell the time, but I could recollect myself, I believe, in a little time.

Sir R. Sawyer. Do you know of his going to Windsor?

Bowes. I did not see him there, but he writ a letter to me that he went thither to meet me there, but I saw him not till he came to town again.

L. C. J. Who is it you speak of?

Bowes. Mr. Jennison.

Sir R. Sawyer. What did he write you in that letter?

Bowes. Sir, the letter is here in Court, I don't remember the particulars.

Sir R. Sawyer. Is it here in Court?

Bowes. Yes, it is, I think.

Recorder. Shew it him, for it may refresh his memory about the time. [Which was done.]

L. C. J. Is that the letter?

Bowes. This is the letter.

Sir R. Sawyer. Pray, when did you receive it?

Bowes. It was in December before Christmas, here is a gentleman that then saw it.

Sir R. Sawyer. Pray, Sir, will you please to look upon it, and then acquaint the court with some of the contents.

L. C. J. North. You are sure, Mr. Bowes, that Mr. Jennison was in town in August?

Bowes. He came then from Tunbridge.

L. C. J. That is all, we can make no more of it: Did he meet you at Windsor?

Bowes. No, my lord, I was gone to Windsor before, and when he came I was gone out of the town.

L. C. J. What time went you to Windsor?

Bowes. The 12th or 13th of August; it was on a Monday or a Tuesday after I came from Tunbridge.

Sir R. Sawyer. Then we shall call one witness more, and we shall prove by him (that is one Mr. Burnet) that the 17th of August he did meet Mr. Jennison going to Windsor. Pray call Mr. Burnet. [Who was sworn.]

L. C. J. Pray, Sir, do you know Mr. Jennison.

Burnet. I met him as I was coming from Windsor that day Dotchet's horse-race was.

L. C. J. What day was that?

Burnet. I cannot exactly remember the day.

L. C. J. What month was it?

Burnet. In August.

L. C. J. Was it the middle of August, or the latter end?

Burnet. It was about the middle of August.

L. C. J. This does not so much relate to you, but it is to give satisfaction to all the world, that what was asserted by Mr. Ireland all along, and at his death, and seems to be justified by so many witnesses as were produced on that account, to prove that he was not here in August is utterly untrue; for this

gentleman, Mr. Jennison, swears he saw him here in town the 19th of August; and to prove that Mr. Jennison was here, here is Mr. Bowes and this other gentleman that come to fortify his testimony, who swears precisely, that the 19th of August he was at Mr. Ireland's chamber, where he saw him pluck off his boots, and talked as if he came post then from Staffordshire.

Corker. I suppose it will not be permitted us to make any argument upon this neither as yet.

L. C. J. No, no.

Sir R. Sawyer. But now, gentlemen, it will behove you to take notes, for we shall come home to you, and we begin with Dr. Oates. [Who stood up.]

Mr. Ward. Pray, Sir, will you tell your whole knowledge of this matter, and apply yourself as near as you can to every one of the prisoners at the bar?

Oates. My lord, in the month of July Mr. Ashby came to town sick, and being sick, and one of the society, the prisoner at the bar, sir George Wakeman, was his physician, and being his physician he did write him some instructions how he should order himself before he went, and at the Bath; That he should, in the first place, take a pint of milk in the morning, and a pint of milk at night, and should drink no morning's draughts but milk, and that he should have one hundred strokes at the bath, at the pump; I do not so well understand what that means, but I suppose the court doth; but these were the words of the instructions: In this letter sir George Wakeman did write, that the queen would assist him to poison the king, and this letter was brought by a messenger to Mr. Ashby. Within a day or two after I saw Mr. Ashby and sir George Wakeman, the prisoner at the bar (he was so called, but I had no acquaintance with him, but just the sight of him) I saw him sit in a writing posture, I saw him lay by his pen, rise up and go away, and the same hand that he left behind him in a paper where the ink was not dry, was the same hand that writ the letter to Mr. Ashby. And, my lord, in that time of converse, while he was writing this, Mr. Ashby did give him some instructions concerning the commission he had received of being physician to the army. Now, my lord, in some few days after there came a gentleman for some of the Fathers from Wild-House, that had the title either of sir Richard or sir Robert, but he was a middle statured man, and a brisk man, about the age of four or five and forty, and he came with commands from the queen for the Fathers to wait upon her at Somerset-House, and I did wait upon these Fathers, there was Father Harcourt; Father Kaines, Father Langworth, and Father Fenwick, and another Father, I cannot remember his name. And, may it please your lordship, we did attend at Somerset-House, and the Fathers went in to the queen, into a chamber where she was, and I waited in an anti-chamber, and I did hear a woman's voice

which did say, that she would assist them in the propagation of the Catholic religion with her estate, and that she would not endure these violations of her bed any longer, and that she would assist sir George Wakeman in the poisoning of the king. Now, my lord, when they came out I desired that I might see the queen, and so when I came in I had, as I believe, from her a gracious smile. Now, if it pleases your lordship, while that I was within I heard the same voice speak thus to Father Harcourt, and asked him, whether he had received the last 1,000*l.* and it was the same tongue, as I can possibly guess, the same voice which I heard when I was without; and I saw no other woman there but the queen, and there were these Fathers. My lord, in that very month of July, sir G. Wakeman was proposed 10,000*l.* in the presence of Father Harcourt, and Father Fenwick, I think was there, and Father Ireland.

L. C. J. Were you there?

Oates. I was there.

L. C. J. Was this proposal made to sir G. Wakeman after this discourse you heard at Somerset-House?

Oates. My lord, I will not be positive whether it was before or after, but it was near that time this 10,000*l.* he did refuse.

L. C. J. But you say you heard the 10,000*l.* was proffered him; pray, who did propose it to him?—*Oates.* Ashby was to do it.

L. C. J. But who did it?

Oates. It was Ashby in the name of the provincial, from whom he had received instructions so to do.

L. C. J. But you say, in your hearing 10,000*l.* was offered him by Ashby.

Oates. Yes, my lord.

L. C. J. What said he?

Oates. He refused it.

L. C. J. What words did he use?

Oates. He said it was too little.

L. C. J. What was the 10,000*l.* to be given for?—*Oates.* To poison the king.

L. C. J. Were those the words?

Oates. Yes, they were.

L. C. J. How did the discourse begin?

Oates. I will tell your lordship how: There was a meeting of the Fathers for this very purpose to treat with sir G. Wakeman before Ashby went to the Bath, and there being a meeting they did break this business to him; but what preamble they made to it I cannot remember. My lord, as for the other prisoners at the bar, Mr. Corker—

L. C. J. But before you go from this matter, you say you know not how they brought it in, but they brought it in some way, he was to meet them to that purpose, and there Ashby did tell him he should have 10,000*l.*; what answer made he to it?

Oates. He said it was too little for so great a work.

L. C. J. Is that all?

Oates. That is all that I remember.

L. C. J. Did he say what he would have?

Oates. I can't remember that, but he said that was too little.

L. C. J. Did he say he would have five more, or any other sum?

Oates. No, that was not then mentioned; but there were letters presently dispatched to Whitebread to tell him, that sir G. Wakeman had refused 10,000*l.* and then this same Whitebread did order the Fathers in London to propose five more, which proposal was made to sir G. Wakeman. This I speak but by hearsay, and it was accepted, and 5,000*l.* of it received in part, and sir G. Wakeman's name was subscribed to the Entry-book.

L. C. J. Did you see his name subscribed?

Oates. Yes, my lord, I did.

L. C. J. Where?—Oates. To the Entry-book.

L. C. J. Where was that book kept?

Oates. It was the book that the Jesuits kept: it was then in our custody.

L. C. J. Whose custody?

Oates. The Fathers custody.

L. C. J. Whose particularly? and at whose chamber was it kept?

Oates. At Wild-house.

Sir Rob. Sawyer. Do you know who was the keeper of it?

Oates. I cannot positively say that, I suppose the secretary and the Fathers.

Sir Rob. Sawyer. And what did you see writ in that book?

Oates. That such a day, (which day I cannot remember) but such a day in August so much was proposed to sir G. Wakeman, and he accepted it, and received it: those were the words, or to that purpose.

L. C. J. Were those the words writ in the book?

Oates. Yes, or to that purpose.

L. C. J. Do you know whose hand writ that?

Oates. Yes, my lord, I can tell whose hand, it was Father Harcourt writ those words.

L. C. J. Sir G. Wakeman's hand was not to it, was it?

Oates. Yes, it was just underneath: Received so much money of Father Harcourt by the order of Edward Coleman: now there was the goldsmith's name to it, I cannot undertake to say who it was, but in my conscience I think it was Staley.*

L. C. J. How much was the money?

Oates. Five thousand pounds.

L. C. J. Was sir G. Wakeman's hand subscribed to that receipt?

Oates. Yes, it was.

L. C. J. Once more, what were the words in the book?

Oates. Memorandum. Such a day 15,000*l.* was proposed to sir G. Wakeman which he accepted. I tell you the purport, and the words as near as I can.

L. C. J. Was it said for what the money was proposed.

Oates. I will not be positive in that, I suppose it was.

L. C. J. But you say it was written such a day 15,000*l.* was proposed to sir G. Wakeman, and by him accepted?

Oates. Yes, my lord, and then underneath it the receipt was written, and this receipt was written thus, "Received in part of this " 15,000*l.* 5,000*l.* of Father Harcourt by order " of Edward Coleman. Geo. Wakeman."

L. C. J. Was the receipt, which is said such a day, the same day with the other?

Oates. There was no other date to it.

L. C. J. Had the first a date to it?

Oates. Yes, my lord, it had.

L. C. J. What day was it?

Oates. It was in August?

Corker. What day in August?

Oates. I cannot tell.

Corker. About what time in August?

Oates. It might be betwixt the beginning and the middle.

L. C. J. But we will suppose for the present question a day: Suppose it was written the 10th of August, "There was proposed 15,000*l.* " to Sir G. Wakeman and by him accepted," and then comes afterwards this note, "Received " then 5,000*l.* in part of this 15,000*l.*" with his name to it. Was there any other date to that?

Oates. No, that was set down at the same day, "Received 5,000*l.* in part by the order of " Edward Coleman."

L. C. J. And then sir G. Wakeman's name was set to it at length, was it?

Oates. Yes, it was.

Sir G. Wakeman. Where was that received? In whose chamber?

Oates. I cannot say that.

L. C. J. Was there any place mentioned in the note where it should be received?

Oates. No, my lord. I was then sick of the stone, and was not at the payment of the money.

L. C. J. But did the note mention any name? Received of any body?

Oates. It was by order of Mr. Edward Coleman 5,000*l.* in part of this 15,000*l.*

Sir Geo. Wakeman. Does he say this was in the entry-book?

Oates. Yes, it was.

Sir Geo. Wakeman. Where was that kept?

Oates. Sometimes at Wild-House, sometimes Mr. Langhorn had the custody of it.

Sir Geo. Wakeman. I humbly beg of the Court that Mr. Staley may be sent for.

L. C. J. He only says he believes Mr. Staley paid it.

Sir Geo. Wakeman. Does he mention no place where it was received?

L. C. J. No.

Sir Geo. Wakeman. Nor no person it was paid to?

L. C. J. No, he says, All I saw is this, that in the entry-book sometimes kept at Wild-House, sometimes by Mr. Langhorn, there was written, "This Day" (which was some day in

* See his Case, *ante*, vol. 6. p. 1502.

August) 'was proposed to sir G. W. 15,000*l.* and by him accepted,' and under that a line or two more, which contained, 'Then received 5,000*l.* by order of Edward Coleman, being part of this 15,000*l.* Geo. Wakeman.'

Sir Geo. Wakeman. Will your lordship please to give me leave to speak something now, I may forget it hereafter.

Mr. Ward. We have not done yet.

Just. Pemberton. Sir George, they have not yet done with this witness for the king.

L. C. J. North. Take a Memorandum of it in your paper.

Sir R. Sawyer. Pray, what do you know more of the prisoner at the bar, sir George Wakeman?

Oates. This is all I can recollect at present.

Sir R. Sawyer. Do you know any thing of any commission that he had?

Oates. I did urge that he received a commission to be physician-general of the army.

L. C. J. Did you see that commission?

Oates. Yes, I saw it in sir George Wakeman's hands.

L. C. J. Had you seen it before?

Oates. Yes, I had.

L. C. J. Where did you see it in his hand?

Oates. When he was writing at Mr. Ashby's.

L. C. J. What note was that he left behind him there?

Oates. It was an apothecary's bill, as I suppose.

L. C. J. What month was it that you saw the commission?

Oates. It was in July.

Mr. Ward. What do you know of his being privy to the consult in April?

Oates. I cannot speak any thing to that.

L. C. J. Did he write his name to that bill?

Oates. I cannot say that, my lord, it was finished, but I cannot be positive about the name.

L. C. J. But you say, that you believe that the name of George Wakeman was the same hand with that you saw when he writ the apothecary's bill?

Oates. It was, as near as I can guess, the same with that letter that was writ to Ashby, wherein he does direct him to take a pint of milk in the morning, and a pint of milk in the evening, and that he should have an hundred strokes at the Bath: And this hand was the same with that of the apothecary's bill.

L. C. J. You never saw sir George Wakeman write in your life, did you?

Oates. I saw him in a writing posture, and I saw him lay by the pen.

L. C. J. But you did not see him write?

Oates. No, my lord; but the gentleman that sat by him was lame of both his hands and could not write: And I saw him lay by the pen, and when he was gone away the ink was not dry.

L. C. J. You speak of that only to shew the likeness of the hand.

Sir Geo. Wakeman. Have you not said that you do not know my hand?

Oates. I have told the Court before how far

I have known your hand. I saw a letter, that I say was signed and subscribed George Wakeman, and that was the same hand that was to the receipt, and to the apothecary's bill.

Sir Geo. Wakeman. Have you not said positively that you do not know it, and is not that matter on record?

Oates. I did see a letter subscribed George Wakeman, it is a fine genteel hand, and after I saw him in a writing posture, I saw him lay by the pen, the ink and paper was wet; I did not indeed see him write, but there was nobody in the room that could write, or in a writing posture but he, for the other gentleman was lame of both hands.

Sir Geo. Wakeman. But I pray give a positive answer to what I ask you; have you not said you do not know my hand?

Oates. I do not remember I have said so.

Just. Pemberton. But he says now he believes that hand that writ the letter to Ashby, and the bill that he saw green, when nobody was by that could write but you, were the same.

Sir G. Wakeman. Have not you said, before the king and council, that you never saw me in all your life, and that you did not know me?

Oates. My lord, you may be pleased to know, when I saw sir George Wakeman at the council I had been up two nights together, and the king was willing once to excuse me from staying any further examination, and being so ill and indisposed for want of rest, in respect both of my intellectuals, and every thing else, I might not charge him so home; but now I have a proper light whereby I may see a man's face, I can say more to him.

Sir Geo. Wakeman. This is just Coleman's Case, the light was in your eyes.

Oates. This is the same gentleman: I desire he may propose his questions to the Court.

L. C. J. This is his question, whether you did say before the king and council, you did not know sir George Wakeman?

Oates. I do not remember whether I did or did not. I saw one called sir G. Wakeman, and this is that man; but I will not say, this was the man that was before the council when I was there.

Just. Pemberton. Did you see the commission in this man's hand?

Oates. Yes, I did.

L. C. J. Did you know this gentleman before he was at the council?

Oates. I saw this gentleman with Mr. Ashby, and he cannot deny it.

Sir G. Wakeman. Cannot deny it! Yes. I hope you will be able to prove it. You said you never saw me in your life, before you saw me at the Council.

L. C. J. Did you ever see him more than once?

Oates. Yes, twice in Mr. Ashby's chamber.

L. C. J. What, two several days.

Oates. Yes, two several days.

Just. Pemberton. Where was it that you saw him when the writing you say was green that he left behind him?

Oates. It was at Mr. Ashby's chamber.

L. C. J. You never saw him before that, did you?

Oates. No.

L. C. J. How often after?

Oates. But once after that.

L. C. J. Was that at the council?

Oates. No.

L. C. J. Look you what he says, he never saw you but twice before he saw you at the Council.

Oates. I saw you when the 10,000*l.* was proposed to you.

Sir G. Wakeman. Where was that?

Oates. At Wild-House.

Sir G. Wakeman. Did Mr. Ashby lie there?

Oates. He did lie there, because the provincial was beyond sea, and he came up to London in order to go to the bath.

Sir G. Wakeman. What day was that proposal made to me?

Oates. It was before Mr. Ashby went to the Bath.

Sir G. Wakeman. In what month?

Oates. In the month of July.

Sir G. Wakeman. By whom? By Mr. Ashby?

Oates. Yes.

Sir G. Wakeman. In the presence of whom?

Oates. Father Harcourt, Father Ireland, and Father Fenwick.

Sir G. Wakeman. You will be sure to name those that can be neither witnesses for me nor against me.

L. C. J. Who can help that?

Oates. I reckon up such as you did keep company with.

L. C. J. Do you know when Mr. Ashby went to the bath?

Oates. The latter end of July, or the beginning of August, as I remember. And this was before he went: he stayed but fourteen or sixteen days, as I remember, in town.

L. C. J. He says he saw you but twice, once when you writ that note, and the second time when the proposal was made to you.

Sir G. Wakeman. And you know all these things, at that time when I was examined before the king and council? Turn this way and answer me.

Oates. I am not bound to answer that question.

L. C. J. But you must answer his questions, if they be lawful.

Sir G. Wakeman. I say, I ask him, whether he knew all these things before that time I was examined before the king and council?

L. C. J. That must needs be, for all these things were done before.

Sir G. Wakeman. Then I ask him this question, why did you say before the king and council, that you knew nothing of me, but concerning one letter that was writ from Mr. Ashby to Mr. Fenwick? I shall prove this upon you; but, my lord, let me observe this, can any one believe, that if such evidence had been given in to the king and council, against me, as he now speaks of, that I should not have

VOL. VII.

been immediately taken into custody, but that I should have my liberty so long as I had?

L. C. J. I will tell you, Sir George, you will do very well and properly to call up your witnesses by and by, when you come to make your defence, and to prove what he said at the council-table. Pray, Dr. Oates, what was the reason you did not give the same evidence then you do now?

Oates. I can, by and by, give an answer to it, when it is proved by him what I did say. As to Mr. Corker, I say this, he had a patent from the See of Rome, to be bishop of London, and Mr. Corker was privy and consented to a proposal that was made by Langhorn to the Benedictine monks, whereof he is one. And these Benedictine monks did contribute 6,000*l.* to the society of the Jesuits, in order to be carrying on of this design. And Mr. Corker, though he did deny before some justices of the peace, that he did go out of the kingdom, yet he did go over to Lampspring in Germany, and staid there some short time, and he did write a letter, but whether it was dated from Lampspring in Germany, or no, I cannot tell, because there was only the date of the month, but not of the place from whence it came, but the latter end of August, it was, and therein he wrote, that he did consent to the proposal, for the raising of the said 6,000*l.* for he is president of the Benedictine monks, and therefore it was necessary that he should give the suffrage, and he had been with Father Le Chaise and the English monks in Paris, and had given an account what prospect of affairs he had in England, and how the design went on.

L. C. J. Was this in a letter?

Oates. Yes, it was.

L. C. J. To whom was that letter directed?

Oates. It was directed either to Father Hitchcot, or to Father Howard, then in London.

L. C. J. You saw the letter?

Oates. Yes, I saw the letter.

L. C. J. Were you acquainted with his hand writing?

Oates. I will shew you how far I might be acquainted with his hand. My Lord, this gentleman, as I think, went away in July, as near as I can remember, I will not be positive in the time he went over; but in the month of June I saw this gentleman with Mr. Fenwick, and he had given him an account either of some friend or kinsman of his at St. Omers, that had not had his pension paid, and Mr. Corker did give a note under his hand, to Mr. Fenwick, where to take up so much money, and the money was to be received of Mr. Langhorn.

L. C. J. How much was that money?

Oates. It was about 20 or 25*l.* and he subscribed his name to it, James Corker; for that is his name, though he is indicted, I know not how, by the name of Anthony: And I have a summons to give evidence against Anthony Corker.

L. C. J. He is indicted by the name of James.

Oates. And then I saw his name to an exa-

2 S

mination that was taken by sir Charles Harbord, and some other justices that were of the House of Commons that took the examination of this Corker, and it was the very same hand he usually writ, only it was not so fair, nor so well, in his examination. This is that I say against Mr. Corker.

Sir Rob. Sawyer. Shew him that hand there: Pray, Sir, look upon it, [Then a paper was shewn to him.]

Oates. This is the same hand.

Corker. Is that a copy of my examination before the justices?

L. C. J. It is the original.

Corker. I am glad it is there.

L. C. J. Shew it the prisoner.

Oates. Mr. Corker did use to bestow the queen's charity—

L. C. J. Is that your hand?

Corker. Yes my lord.

L. C. J. Shew him the other.

Corker. These are both my hand, as far as I can see.

Oates. That note he gave to Fenwick, for the receiving this money, was the same hand with this, and so was the letter that came, as we suppose, from Lampspring in Germany; but I cannot say it did so, wherein he did give consent to the raising and giving this 6000*l.* for the carrying on of the design.

Sir Rob. Sawyer. What was that you had more recollected?

Oates. He did dispose of the queen's charity (as it was so called) but Mr. Corker did say, it was to carry on the design; and this he did say in the month of June, when he was with Mr. Fenwick. Now, what he meant by that design, I leave to the jury to judge, only some parcels he had distributed, 2 or 3*s.* to some and 40*s.* to another, to some more, to others less: But a great part of it he did use for the carrying on of this design, and he said the queen had given him orders so to do.

Sir Rob. Sawyer. What do you know of his being privy to the consult of the 24th of April?

Oates. He did know of it, and I will tell your lordship how I know he knew of it. He did except against Pickering being chosen.

L. C. J. To do what?

Oates. To do that wicked thing to kill the king, for, said he, Pickering is commonly attendant upon the altar, and he thought it not so convenient, that he should be employed about that business, because he might miss an opportunity, by being at high mass, whereas another, a lay-man, might do it.

Sir Robert Sawyer. Were you present when the exception was made?

Oates. Yes, it was when the order was given about the money, to Fenwick.

L. C. J. At whose house was it?

Oates. At the Benedictine convent in the Savoy.

Sir Rob. Sawyer. Was it expressed at that time what Pickering was to do?

Oates. His being privy to the consult in April, I had it only from his own mouth, for he won-

dered that the Jesuits should employ Pickering in that business, when they might have a lay-man, who was more fit; he being a religious-man, and attending upon the altar, it was not so convenient.

L. C. J. Where was that 6,000*l.* to be raised?

Oates. Out of the Benedictines estates.

L. C. J. Was he their president?

Oates. Yes, he was.

Just. Ellys. Dr. Oates, was he against the thing, the doing of it at all, or against Pickering's doing of it only?

Oates. He was only against Pickering's doing of it. He would have had a lay-man employed in it.

Just. Pemberton. That is plain, for he did give consent that the 6,000*l.* should be raised for the carrying on the whole design.

Sir R. Sawyer. Do you know any thing besides that letter you have mentioned, which he writ to give his consent?

Oates. Nothing, but that because he had given his consent, the money was paid.

L. C. J. Do you know it was afterwards paid?

Oates. I believe that the money was paid, for our Fathers said that they had received it.

Recorder. What say you to the rest of the prisoners?

Oates. Mr. Marshal I do charge with the same, that is, that he was actually present at the Benedictine convent, when the 6,000*l.* was agreed to be contributed, but it was not to be paid till they had an answer from Mr. Corker.

Sir R. Sawyer. That letter you speak of, was an answer to it, I suppose?

Oates. Yes, my lord, it was so.

Sir R. Sawyer. What do you know of the consult, was he privy to that?

Oates. I will not be positive as to Mr. Marshal's being privy to the consult, I know that he was privy to Pickering's undertaking to kill the king.

Sir R. Sawyer. How do you know that?

Oates. Because he was of Corker's opinion that they had better take a lay-man.

Recorder. What say you to Rumley?

Oates. He is a Benedictine monk, or at leastwise a lay-brother. And he was privy to this consult, in which the 6,000*l.* was agreed to be paid and given, and I do judge he did consent to it, for he did pray God that it might have good success, and that the catholic cause might once again flourish in England.

L. C. J. North. He was there then, was he not?

Oates. Yes, he was there, but only as a servant, a lay-brother of that order.

L. C. J. North. Why, is he professed?

Oates. Yes, I think he is.

L. C. J. North. What time was this, Mr. Oates?

Oates. In August.

L. C. J. North. Was it the former part of August?

Oates. I cannot be positive, but I think it was.

Sir R. Sawyer. Can you say any thing more against the rest of the prisoners?

Oates. I do not recollect any thing more, at present.

Mr. Ward. Now, gentlemen, if you please to ask him any questions, you may.

Rumley. Were you there present?

Oates. Yes, I was.

Rumley. Was it in the month of August?

Oates. Yes, it was.

Sir R. Sawyer. Will any of you ask him any more questions?

Corker. He says I went in June to Lampspring, now I would ask Mr. Oates where Lampspring is?

Oates. We suppose it to be in Germany.

Corker. It is almost at the furthest end of Westphalia, and he says, that being there, I had discourse with la Chaise, and the English monks at Paris, about this design, I would fain make sense of this, if I could.

Oates. To satisfy Mr. Corker, I cannot say that he went to Lampspring, but only as he said himself; and they used to say they go to one place, when they go to another: as Ireland said he went to St. Omers when he went into Staffordshire.

Corker. Where, and when, did I give my consent to the design about murdering of the king, for you named the 24th of April?

Oates. This is that I say to the court, that the privity that Mr. Corker had of the consult of the 24th of April, was that I had out of his own mouth, in which he did declare, that he did think the Jesuits had not done well to make choice of one of their order to do that business, since he was to attend upon the altar, but it would have been well if they had made choice of some other layman to match Grove.

Corker. You tell me, I had a patent to be bishop of London.

Oates. I saw it in your own hand.

Corker. Who gave me that patent?

Oates. I did not enquire into that.

Corker. Did you hear me say, I accepted of it, and should be bishop of London?

Oates. I heard you say this, you hoped it would not be long ere you should exercise your episcopal function [At which the people laughed.] I now recollect something more. I remember Mr. Marshal was present when Father Hitchcot and Father Howard, and Conyers the Benedictine monk, were there present, about the laying of a wager, whether, or no, the king should eat any more Christmas pies, and this Benedictine monk, Conyers, did lay he should not, and another gentleman laid that he would, and this gentleman, Marshal, did go halves with Conyers, that he would not.

Marshal. I desire you would tell my lords the judges how long you have known me, and where you have seen me.

Oates. I have seen this gentleman several times, but had never any familiarity with him, but I have seen him officiate at the altar.

Marshal. How long have you known me?

Oates. First and last, two years; but the first time that I knew you, to hear you speak, was when Father Hitchcot and the rest were there.

Marshal. He says he hath known me these two years and yet never spake to me.

Oates. I knew him by sight.

Marshal. He looked upon me as a priest, it seems, he knew me to be engaged in this business, as he says, I wonder he should never converse with me.

Oates. There are a great many that I know by sight, whom I never did converse with.

L. C. J. What do you infer from that? It may be, you know some of the bench by sight, that you never spoke to before, nor they to you.

Marshal. What day of the month was this consult?—Oates. It was in August.

Marshal. But what day of August?

Oates. It is a great privilege that I tell you the month. It was between the first and the middle of August.

L. C. J. He tells you it was the former part, but it lies in his breast, whether he will or no, to tell you the exact day.

Marshal. My lord, it is impossible to make a defence, if circumstances of time and place be not mentioned.

L. C. J. It is fit he should answer, if he can tell the time, but if he cannot, we cannot help it.

Marshal. But if he does not name the very day he may name the place.

L. C. J. He does name the place, it was at the Benedictine convent.

Marshal. Why cannot he as well remember the day?

Oates. If they will tell me when the feast of the Assumption is, which is a feast of their making, then I will give them a pretty near account when it was.

Marshal. The feast of the Assumption is the 15th of August.

Oates. My lord, it was either the day before or the day after.

Marshal. Now he hath avouched this positively.

Oates. Nay, I will not be positive.

Marshal. But you were so, that it was the day before, or the day after.

Oates. I appeal to the judges of the court.

L. C. J. If he will say it, let him, but people are not to be snapped up thus: Mr. Oates, you are upon your oath, and pray answer the question that is asked by the prisoner as positively as you can. If you can, say so, if you cannot, say so.

Oates. My lord, I do believe verily it was either the day before, or the day after.

L. C. J. Are you sure it was?

Oates. My lord, I do verily believe it.

Marshal. But what accusation is it of a thief or a murderer upon the highway, unless you tell the time exactly.

L. C. J. You see he will not answer positively.

Marshal. Mr. Oates, was I at any other consult besides this one?

Oates. Yes, you were, upon the 21st day of August, if it fell upon a Wednesday.

Marshal. What matter is it what day it fell on.

Oates. If it were a Wednesday, then the 21st of August you were at a consult, when we had letters from archbishop Talbot, wherein we had an account of the state of Ireland, how the Irish affairs did stand, but it did not pay an Irish letter's price, and therefore I suppose it came from this side of the water, though it was directed as if it came from Dublin. And this was read there, and there was in it a prayer, that a commission might be sent down, and there were some Jesuits and some Benedictines; amongst whom Marshal was one, and he did give his consent that the commission should be sent down.

L. C. J. What commissions were they?

Oates. For officers in the army that was to be raised there.

Marshal. Where was that letter read?

Oates. At the Benedictine convent.

Marshal. And this, you say, was the 21st of August?

L. C. J. And that was on a Wednesday, as the Almanack says.

Oates. There he agreed to send the commissions into Ireland for the appointing of officers, and did consent to the poisoning of the duke of Ormond.

Rumley. When was Pickering taken?

Oates. He was taken the night before, or Michaelmas-day in the morning.

Rumley. Were not you there, Mr. Oates?

Oates. Yes, I was.

L. C. J. Were you at all the consults?

Oates. No, I was sick, when sir George Wakeman was offered the 15,000*l.* and received the five.

L. C. J. What consults were you at?

Oates. I will answer to those consults that these persons are affected in; there was one consult about the beginning or middle of August, there was another the 21st of August, and then there was another consult wherein the 5,000*l.* was paid, or ordered to be paid, to Wakeman, and I was not there.

Rumley. Who was the messenger that took Pickering?

Oates. I do not know him.

L. C. J. Was the consult of sir George Wakeman after the 21st of August?

Oates. No, my lord.

Mr. Ward. Will you ask him any more questions?

Oates. My lord, I desire I may have leave to retire, because I am not well.

L. C. J. You must stay, Dr. Oates, till after their defence be over.

Recorder. If you desire to have any refreshment, you shall have it got for you.

Sir R. Sawyer. Then we call Mr. Bedlow next. [Who stood up.] Pray, Sir, speak your knowledge concerning the prisoners at the bar.

Bedlow. My lord, before I speak any thing to the prisoners, I desire there may be a difference between the clerks of the counsel and me decided, they have mistaken a word in my evidence, and put in New-Market, for Windsor.

L. C. J. What does that signify to the present business?

Bedlow. I desire it may not be brought against me in my evidence.

L. C. J. Then it is only for a caution beforehand.

Bedlow. The latter part of the last summer, it was, I think, about the beginning of August, sir George Wakeman was at Harcourt's chamber, I myself was there first, and when he came in, he fetched a turn or two about the room, seeming angry and discontented, and asked Harcourt, if he had any thing for him? Then Harcourt asked him, how he did proceed? Said he, I do not know whether I shall or no; for what reason am I drilled on, in such a concern as this? Says Mr. Harcourt, Stay, sir George, you need not be so hasty as to blame us, for we are better provided for you than you think for. With that Harcourt went to his cabinet, and took out five or six papers, and brought a small bill, and asked sir George Wakeman; said he, sir George, how are you provided? Said sir George, I have been ready long since, but you have not been so punctual with me: but what have you there? Said Harcourt, I have a bill of 2,000*l.* From whom? said sir G. Wakeman. Then he named a gentleman, but I do not know him, nor cannot remember him. And said he, I came now from Whitehall, and received it from such an one, which he said was by the Queen's order, and that he had it from her. This bill is charged upon such a goldsmith, and named him, he dwelt somewhere about St. Dunstan's church, but I cannot remember his name, I will tell you by and by why I think he dwelt there. As soon as sir George had read it, It is well, said he, if it be accepted, I find more encouragement from my good lady and mistress, than from any of you all. They had some little more discourse, and sir George asked of Harcourt, who I was? Said he, it is a friend that hath been long engaged in our business, and is to do the next great work to yours. Well, said sir George, I will go and see if the bill be accepted, and you shall hear of me to-night; and accordingly he did go. I did not stay but a very little time after him, and therefore I collect he could not go far to get the bill accepted; for I did cross Lincoln's-Inn-Fields, and came down a lane by Temple-Bar, and between the Queen's-Head and Chancery-Lane end I met with sir George Wakeman: said I, Have you been with your bill already, and is it accepted? Yes, said he, it is accepted. And when is it to be paid? I am to go, said he, in the afternoon, to receive it.

L. C. J. Who said so?

Bedlow. Sir George Wakeman.

L. C. J. To whom?

Bedlow. To me. And seeing of him return

from the city-ward again, I concluded it was not far off, and spoke to him as I tell you. Sir George and I were not very well acquainted, but I had known him five years, and upon that character Mr. Harcourt had given of me, I thought I might make bold with him, and when I asked him and accosted him with that short question, Is your bill accepted? he made me answer it was, and he was to receive it in the afternoon, and thought it not fit to dispute any thing with me.

L. C. J. You do not know what goldsmith it was upon?

Bedlow. It must be one that lives about St. Dunstan's church, or Fleet-Street, for he could not go far in that time.

L. C. J. Where was Harcourt's chamber?

Bedlow. In Duke-street, next the arch. Now I asked Harcourt afterwards, whether this was part of the 15,000*l.*? Said he, We have not adjusted that matter yet, but he received this only as a present supply. And he did in a short time after receive as much as made it up 5,000*l.* But I asked, whether it were for the old business? Yes, said he, it is for the same design, if we should fail of it by other means. (And so was the discourse to sir George Wake-man) if we should fail of it at Windsor, then this way is to be taken; and if this fail too, we will make sure of it at New-market.

L. C. J. What do you know of the other prisoners?

Bedlow. Mr. Corker I have seen with Kaines and Le Fevre, but never in their company but once, where being in the great court at Somerset-House, we walked out of the court into the piazza, and there we were speaking of our business. Kaines was saying to me, you brought such a letter, such a time, for me, and I have lost it: I do not know what to do for it. Said I, Do you remember the contents of it? Yes, said he, I do. Said I, You should take such letters in such a character as none could read but yourself, and then burn the letters themselves. Said he, I hope it will not come to light, for none will meddle with my papers, that can do me any hurt. I heard nothing from Mr. Corker, that did relate positively to the murder of the king, but Corker and Le Fevre were speaking in general, about the business, what letters they had received from beyond sea how to manage their affairs.

L. C. J. About what matter?

Bedlow. About the Plot, what letters they had received from beyond sea, and how forward they were in their proceedings here.

Corker. What did we talk about?

L. C. J. What was it about still?

Bedlow. It was about raising the army, and what interest he had with the people. It was in general, I come not to particulars.

Corker. Did Kaines, or I, or any of us, name any such thing as plot, design, or the like?

Bedlow. We were discoursing of the business in general, I do not take upon me to speak to particulars.

L. C. J. What was it about, say you?

Bedlow. About raising an army, what interest he had in the people, who had been sent into the country, what they had done, and the like.

Corker. Did you hear any word of killing, army, or design?

Bedlow. Yes, every one of those words were used. I do not take upon me to tell how the words were placed.

Mr. Ward. What say you to the rest?

L. C. J. When was this discourse?

Bedlow. July was twelvemonth.

Mr. Ward. What say you to Mr. Marshal?

Bedlow. Mr. Marshal hath reason to know me, and I suppose will not pretend to the contrary, for he cannot but remember that I knew him when I went to the Gatehouse. He hath carried several letters that have been brought from beyond sea, and others that have been writ in England, into the country, and I have been with him in Latham's chamber in the Savoy and Somerset-house, so long since as Latham was one of the queen's monks. He hath carried the same letters that I have brought from beyond the sea, three or four or more at a time, to communicate to the country gentlemen of the Catholic party, that were assistants to us, particularly to sir Francis Ratcliffe and others, I am sure he hath carried, and he knew what was the effect of those letters, and what were the answers to them; he read them as well as any of them, for I think he is of the same order, to the best of my knowledge, though I never saw him in his habit.

L. C. J. What was the import of the letters?

Bedlow. I never brought any one letter to the religious Fathers (and I have brought a great many) but what did import what I have now given in evidence, and did relate to the full substance of what I say now.

Sir R. Sawyer. Can you mention the particulars of any one letter that he knew the contents of?

Bedlow. I do mention one which I very well remember, and that was to sir F. Radcliff, and I remember it though it be long since, because I was well acquainted with sir F. Radcliff's son, and I brought commendations from his son to England.

Sir R. Sawyer. Well, sir, what was the contents of that letter?

Bedlow. It was a copy of the letter from La Chaise in Paris to the monks and Jesuits in England, in answer to the first letters that I brought over to them relating to the management of the design.

L. C. J. Was it mentioned in that letter what the design was?

Bedlow. In that which I carried over to La Chaise, it was, that all things were in readiness and the time now drawing near, for they did hope in a year or two, or in a little time they should be in a capacity to put this in practice, and they did not question but to subvert the oppression and tyranny the Catholics were under in England.

Sir R. Sawyer. Was Mr. Marshal acquainted with the contents?

Bedlow. He was one of them that used to examine the answers. It was written to him partly, for if he were not a member of their order, as I think he is, he was one of the club and consult that saw the contents of all letters. I have not seen him so often, as I have done the others, but I believe he hath been there as often, but he hath received to my remembrance twice letters to communicate into the country concerning the subversion of the government, and the introducing of popery.

Mr. Ward. What say you to Mr. Rumley?

Bedlow. I cannot be positive as to my own knowledge, but what Mr. Harcourt has said.

L. C. J. Do you know any thing of your own knowledge by him?

Bedlow. I have been told he hath communicated letters of this business into the country. And that he was one employed when any secret letters were sent.

L. C. J. So you cannot declare upon your oath, that you know that Mr. Rumley knew the contents of any letters relating to the plot?

Bedlow. No, my lord, I do not. I have a good remembrance of faces, but I do not remember his.

Sir G. Wakeman. What day was it that I had the discourse with Harcourt, and received the bill from him as you say?

Bedlow. You ask me a question as if I were in the state I was formerly in, when I might have an indulgence for telling a lie. No, I have no delight to damn my soul, to make you a martyr; but to satisfy you as well as I can I say, it was the beginning of August, or part of the beginning. I do not speak to a day.

Sir G. Wakeman. How do you know it was a bill of exchange for this money?

Bedlow. You did read it aloud.

Sir G. Wakeman. Had I any acquaintance with you?

Bedlow. No, but Mr. Harcourt told you who I was.

Sir G. Wakeman. And would I upon the first sight of a man discover to him what would endanger my life?

Bedlow. Ay, and a hundred times more, if Mr. Harcourt did but tell you I was his confidant.

L. C. J. What were the contents of that note?

Bedlow. It was directed to a goldsmith, whose name I tell you I cannot remember.

Sir G. Wakeman. You are good at remembering some sir-names, why can't you remember this name as well?

Bedlow. I can remember names that do relate to any business, but only hearing this name by the by, I cannot remember it, for I did not then think it of such consequence.

Sir G. Wakeman. You do not know me?

Bedlow. Yes, I do.

Sir G. Wakeman. I call God to witness I never saw you before in my life, that I know of. You have a very remarkable face, and if a man had once seen you he must know you again.

L. C. J. Who subscribed that note?

Bedlow. I don't know, it was one of the queen's gentlemen that Harcourt had it from. And whereas sir George Wakeman says he does not know me, I did take physic of him at the Bath.

Sir G. Wakeman. When was I at the Bath?

Bedlow. It was some years since.

Sir G. Wakeman. I never was there but once, and that was a year and a half ago.

Bedlow. No, sir, it is more than that, for you were there when the queen was there.

L. C. J. How long is it ago that you were there, Sir George?

Sir G. Wakeman. It was about two years ago.

Bedlow. It is three years this summer.

L. C. J. Then that is well enough; for that is some years since.

Bedlow. I had acquaintance enough with him while he was there.

Sir G. Wakeman. I say this, my lord, if I had been acquainted with Mr. Bedlow, I should have known him to be a great rogue, which is but what he hath said of himself; and then I should not have thought it fit to have trusted such an one with such a great secret as this.

L. C. J. It may be he calls himself great rogue for that which you would have applauded him for, and canonized him too. It may be he thinks he was a rogue for going so far as he did; but perhaps you are of another opinion.

Bedlow. My lord, I could not count myself an honest man, that had consented to the death of the king and sir Edmundbury Godfrey.

Sir G. Wakeman. But though he gives you an account of such a bill delivered to me, yet neither he tells you the time, nor mentions the man upon whom it was drawn; here are all the marks of falshood that can possibly be.

L. C. J. No, he does not mention the man upon whom it was drawn, nor from whom; nor can he say that ever you received it; but you were to receive it.

Sir G. Wakeman. How came he to omit that? but because I should have no plea for myself when I came to be accused of it.

Bedlow. Pray, sir George, do not press me to say more than I know. I do tell you all that I can say of myself.

Mr. Recorder. Have you any more questions to ask him?

Marshal. I ask you this question; First, Why will you damn your soul to send me to Heaven? Lay your hand upon your heart, and in the presence of God declare whether ever you saw me in your life, before you came to the Gatehouse? Whether ever you saw me in any part of the world whatsoever? And whereas you say now that I owned that I knew you there; it was so far from it, that all the company that were there, will say that you did not know me, and declared yourself a stranger to me.

Bedlow. No, sir, pardon me; you did not deny but that you had seen my face.

Marshal. No, all the company that were there will say that you owned yourself a stranger to me; you told me, Mr. Marshal, be not afraid; I will do you no hurt. But Mr. Bedlow, where have you seen me?

Bedlow. At the Benedictine Convent in the Savoy. And, my lord, the first word that I said, when I saw him, was, that this man's name is Marshal, and he carried such and such letters into the country, and sir William Waller can testify the same: (who standing upon the bench, was sworn.)

Mr. Recorder. Mr. Marshal, you had best to hearken to what sir William Waller says.

Sir W. Waller. My lord, I went to the prison to see Mr. Marshal, and Mr. Bedlow was there with me; Mr. Bedlow asked him if he did not know him, and called him by his name; he declared he had seen him before, but said he did not know him.

L. C. J. Did he call him by his name as if he knew him?

Sir W. Waller. Yes, my lord, he did.

L. C. J. Look you, Mr. Marshal, he says that you yourself owned that you had seen him before, though you were not of his acquaintance.

Marshal. What sir William Waller says I must oppose, though I am extremely sorry so to do. Sir William, you may please to remember that you came to me after Mr. Bedlow was gone.

Sir W. Waller. No, I was there with you before he came in.

Marshal. I believe those of the Gatehouse do remember that I spoke with Mr. Bedlow in private in an interior room; what you spoke was in the open hall there. You asked me whether Mr. Bedlow had not been there? I told you, yes; that was in the public place; whereas Mr. Bedlow talked with me only in a private room.

Sir W. Waller. My lord, what I have said is upon my oath, and it is nothing but the truth.

Marshal. And I am upon my life, therefore I am very sorry I must for the truth sake, and defence of my life, contradict what you say. What your worship and I spoke was in the public room; but what discourse Mr. Bedlow and I had, was in another private room.

L. C. J. Look you, sir William Waller, was you there when Mr. Bedlow was with him?

Sir W. Waller. I was, my lord.

L. C. J. Where?

Sir W. Waller. In the common room.

L. C. J. What did he say concerning Mr. Bedlow in the common room?

Sir W. Waller. Mr. Bedlow called him by his name, and asked if he knew him? He said he had seen his face, but did not know him.

L. C. J. Do you hear that, Mr. Marshal?

Marshal. Truly, my lord, it goes against my heart to speak any thing in opposition to what sir William Waller says, for I would not for all the world reflect or say any thing that should glance upon sir William Waller, as if he had taken a false oath; but all in the Gatehouse,

may Mr. Bedlow himself knows; that he had discourse with me in a private room before sir William Waller came.

L. C. J. Mr. Bedlow, speak yourself; was sir William Waller there when you came to the Gatehouse?

Bedlow. My lord, I had an order from the council-board to go and see the prisoner, there was nobody that told me his name, nor that I knew, knew it; but I would not do it, I was so cautious, but in the hearing and company of a justice of the peace, and therefore I went away before they had called him down, and I went to see if the House of Commons were sitting; and when I came back, sir W. Waller was just coming thither, and so I went in with him, for I met him at the bottom of the stairs. We came into the common room, and there was Mr. Marshal with the keeper, and I was in no other room, but the common room. And sir Wm. Waller withdrew to the end of the room while I asked him some questions; and pray will you please to ask sir W. Waller whether I did not call him by his name as soon as I saw him?

Sir W. Waller. Yes, my lord, he did: He asked him if his name was not Marshal: and whether he did not know him: and he said he had seen his face, but had no acquaintance with him.

Marshal. Were not you with me first in that room which turns in on the right-hand from the common room?

Bedlow. I do not know any such room in the Gatehouse.

Marshal. There were your guards, Mr. Bedlow, and there were several others in the Gatehouse; they cannot but remember what room I was brought into: They cannot possibly but remember, that when sir William Waller came to me, he asked me whether Mr. Bedlow had been with me.

L. C. J. Look you, gentlemen, they have done, call what witnesses you will, and make your defence as well as you can.

Marshal. My lord, I did not think or imagine any such thing would be spoke of; or that there would need any attestation for it.

L. C. J. Look you, they have done; we will hear what your witnesses will say as long as you will.

Marshal. My lord, Mr. Bedlow seemed a perfect stranger to me when he came to the Gatehouse; and to encourage me, told me, "Mr. Marshal," says he, "do not fear, I will do you no hurt at all: Did not you send," said he, "to such an one, to have Mr. Bedlow questioned about such and such things?" Which I denied, and he did not seem by any word that he spoke, to have seen me before in his life.

L. C. J. He told sir Wm. Waller your name was Marshal, though you went by a wrong name, the name of Marsh.

Marshal. He might easily know my name, by those that took me.

L. C. J. But I tell you, you went by a wrong name then, Marsh.

Marshal. My lord, I am called promiscuously Marsh and Marshal. But Marshal is the name I own.

L. C. J. And that is the name he knew you by.

Marshal. I did not call myself Marsh when I was taken, but told my true name.

Bedlow. My lord, I did not hear of any name at all, but I said, This is Marshal, one of the Benedictine monks, as soon as I came in.

Marshal. Mr. Bedlow seemed to encourage me to hope, and bid me not fear; said he, You will have an honourable bench, and a good Jury. And this, they that were there can testify.

L. C. J. Call them: Call your witnesses.

Marshal. But my lord, I did not know any thing of this. And sir Wm. Waller's question that he asked me was, If Mr. Bedlow was with me?

L. C. J. You hear what he says.

Marshal. I am infinitely loth to say it, because he swears it; and you well know, Mr. Bedlow, you talked with your guards a-while, and then turned at last to me.

Bedlow. Yes, I did talk with my guards, but sir William Waller was in the room as well as I.

L. C. J. By what name were you committed?

Marshal. I had letters about me, writ to me by that name? and I thought it my duty to answer to that name that the letters did call me by.

L. C. J. Well, have you any witnesses?

Marshal. This is a surprise, I did not know of any such thing.

L. C. J. Have you any witnesses, sir George Wakeman?

Sir Geo. Wakeman. Yes, my lord, I have several.

Marshal. But, Mr. Bedlow, can you say you have seen me any where before you saw me at the Gatehouse?

Bedlow. Yes.

Marshal. Where?

Bedlow. At the Savoy.

Marshal. And any where else?

Bedlow. Yes, and at other places.

Marshal. Name one other place in the whole world, and I will be contented to die.

Bedlow. I will tell you why I cannot name any other place positively. I did carry the letters thither, there were the Consults about them, and there I used to converse with you most.

Marshal. Can you prove that ever you were in the Savoy in your life? And I will be hanged without any more to do. If you can prove it either by man, woman or child, I will go to the gallows, and will not say one word more.

Bedlow. My lord, I have other witnesses, but at present I cannot produce them: There are some in Kent, they are some of them in one country and some in another, I reserve them for another time, but there is oath made of it

before the secret committees of the Lords and Commons.

L. C. J. How can he imagine that this should be put upon him: Therefore you may well believe that he hath never a witness present. It may be he hath none can prove he ever was at Westminster-hall in his life, for who could imagine such a question should be put to him?

Marshal. Having been there several times, I suppose he did not use to go alone; it is impossible, but if they had been with him often there, he might prove it; if he say true, sure some should attest it.

L. C. J. It is likely it should be so, but he hath them not here.

Justice Pemberton. Why, do you think he can bring witnesses for every act that he did in his life?

Marshal. If he have them not here, let him have time to produce them.

L. C. J. He hath a witness in Kent, would you have us keep up the Jury till he sends for his witness out of Kent.

Bedlow. There is my landlord, at whose house I lay so long, can testify it.

Marshal. Who is that?

Bedlow. Mr. Cott, a belt-maker in the New Exchange. He hath gone often with me when I have gone into the convent, and he hath gone round about, and his maid that used to carry the portmantle, wherein I brought over the letters from beyond sea.

L. C. J. Can you name any one body that ever saw you in the Savoy?

Bedlow. I do name one; and besides, my lord, I lay in the Savoy half a year at one Woodroff's.

Marshal. Was that the place you saw me in?

Bedlow. No, nobody came there but monks and messengers.

Marshal. Was you there at the time when the Savoy was searched?

Bedlow. No, but I gave sir William Waller directions to search in the most material places of it.

Mr. Recorder. He says a material thing, if he be in the right, that he did give directions to sir William Waller to search in the most material places of the Savoy. We will ask that question of sir William whether he did or no.

Sir Wm. Waller. Both Mr. Oates and Mr. Bedlow did give me directions to search in the Savoy; they told me of such a particular room where Pickering lay, and where such a closet was, and many other things; and it was by their directions that I made the search.

L. C. J. Look you what sir William Waller says; he says that both Mr. Oates and Mr. Bedlow did describe several rooms to him in the Savoy, which it was impossible for them to make such a description, if they had not been there before.

Marshal. I desire to know when that description was given?

Sir Wm. Waller. Two or three days before I took Mr. Marshal.

Marshal. Mr. Oates made searches there before.

L. C. J. But we speak of Bedlow now.

Marshal. But Mr. Bedlow might have knowledge from him and others that were there.

L. C. J. Do you think he must needs go officiously to inform Bedlow of what he found, upon an imagination that such a question should fall out hereon? And if he received no information, how then could he describe the rooms without he knew them?

Marshal. May there not be several houses that I may give a description of, upon the hearsay of others, though I were never in them myself?

L. C. J. No, I know not very well how; and there is no reason you should imagine he received information from Oates.

Marshal. My lord, there is reason enough, because both do combine in the same accusation.

Bedlow. My lord, I gave sir William Waller directions to search in such a place, under such a bench in Pickering's apartment, where he found the gun that was to kill the king.

L. C. J. Well, call your witnesses, sir George.

Sir G. Wakeman. Call Mr. Chapman.

L. C. J. But before they begin, sir Robert Sawyer, we must do all the right to every one we can. I do not find, by the strictest observation that I have made, that Mr. Bedlow, who is the second witness, does say any great thing, any material thing against any one of them; but as for Rumley he says nothing at all. He says, in effect, against sir George Wakeman, no more than this, That he saw Harcourt give him a note for 2,000*l.* which he said was from the queen; upon which sir George said he was more beholden to his good lady and mistress, than to any of them all. The note he does not know who drew it, nor upon whom it was drawn; nor does he say what it was for, more than what Harcourt told him, which was in doubtful words, That it was about the old business; but Harcourt did not tell him this in the presence of sir George Wakenian, but he spoke to Harcourt about it. It is no more, than sir George Wakeman received from Harcourt the bill of exchange, he does not know upon whom, nor for what.

Sir Robert Sawyer. My lord, he says more, with submission; for he says this further, That there was a discourse about the business; and he did tell you, That sir George Wakeman should complain, that they had not done well with him, and asked why he was drilled on; but when the note was produced, he said, My matters are already prepared, but you are not so ready to perform your promises. Then said Harcourt, 'If you are ready for us, we are ready for you: And told him, If he did not do it, they would do it at New-market.'

L. C. J. What is all this? Pray Mr. Bedlow stand up again: We are now in the case of men's lives, and pray have a care that you say

VOL. VII.

no more than what is true upon any man whatever. I would be loth to keep out Popery by that way they would bring it in, that is by blood or violence: I would have all things go very fair; Pray what, upon your oath, was the first part of sir G. Wakeman's discourse with Harcourt when they met?

L. C. J. North. Relate again your whole knowledge concerning sir G. Wakeman, and the Bill of Exchange, and the discourse after it, because we are now upon the consideration of it, what effect it will have upon him.

Bedlow. My lord, I was with Harcourt in the chamber, and sir George Wakeman came in, and walked a turn or two about the room, and seemed to be discontented. How do you, sir George? said Harcourt. Says sir George, For what am I drilled on thus in a concern of this importance? What is the matter with you sir George? said Harcourt. Why, is this a business to be slighted, said sir George, as I am? For I have no performance of your promises. Why, said Harcourt, what would you have? we are ready for you. Then said he, I am ready for you. And then Harcourt spoke merrily to him, Why are you so angry, sir George? And upon that he goes to his cabinet, and searching among his bags he found a little note among them, and gave it to sir George; saith he, There is a bill for you: I have been to-day at Whitehall, and received it by the queen's order, from such a gentleman: [whose name I cannot now remember;] and it is upon such a man for 2,000*l.* [but I cannot remember the goldsmith's name neither.] Well, said sir George, it is well somebody gives me encouragement; I have more encouragement from my good lady and mistress, than from any of you. Nay, said Harcourt, for encouragement, that you shall not want; for the rest shall be paid in due time.

Sir G. Wakeman. If the queen had given me 2,000*l.* for the service I had done her, was that any harm? I have deserved it, I am sure, for 9 years service.

Sir R. Sawyer. What other discourse had they then?

Bedlow. Said Harcourt, But sir George, this must be well followed, and closely observed, because so much depends upon it; for if we should miss to kill him at Windsor, or you miss in your way, we will do it at New-market.

L. C. J. Who said so?

Bedlow. Harcourt.

L. C. J. Did Harcourt say, before sir George's face, If we miss killing him at Windsor, and you miss your way, we will do it at New-Market?

Bedlow. Yes, he did say, If we miss killing him at Windsor, and you miss in your way (which we hope you will not) we will do it at New-market.

L. C. J. He says now quite another thing than he said before.

L. C. J. North.

Mr. Recorder. } No, he said the same before.

Sir R. Sawyer. }

2 T

L. C. J. What answer made sir George Wakeman?

Bedlow. Sir G. Wakeman said, If I find you ready, I will be ready in all things.

L. C. J. Was the word spoke of poisoning?

Bedlow. I have spoken that already. 'If we miss at Windsor, and you miss in your way;' I do not remember whether the word Poison was used; but I knew by what Mr. Harcourt and others had told me that Poison was meant by it.

L. C. J. Was all this one intire discourse?

Bedlow. Yes, my lord.

Then Sir George said privately to his fellow-prisoners, 'There is my business done.'

Sir R. Sawyer. Here is a positive proof of the receipt of money, which coupled with what Oates says, and the discourse that Mr. Bedlow tells you of, makes it out what it was for. This was paid in part, was it not, Sir?

Bedlow. The answer that Mr. Harcourt gave to sir George, was, That he should have the rest in due time.

L. C. J. But what say you to Marshal, but that he carried letters?

Sir G. Wakeman. Was there nobody present but you?

Bedlow. There was only Harcourt, you, and I.

L. C. J. But what say you to Corker?

Bedlow. Corker hath been in the company with Le Faire, talking of news, what encouragement they had by letters from beyond sea, as those they had from France; such and such letters speak that they are in readiness of money, men and arms; and if we are ready here, they are ready for us. This was usually the discourse, and all upon the same design. Now when we talked of this business, we did not say the word Plot, but we all know what was intended by it, that is the Plot.

L. C. J. And what said Corker?

Bedlow. He said it was well. He did know what readiness such and such persons were in, when the design was likely to take effect. I know not their names; we were talking of several persons several times, some in England, and some beyond sea.

L. C. J. What can you say to Marshal?

Bedlow. I do say, that he hath been to consult of the return of letters which were the answers to those I brought from beyond sea.

L. C. J. Did he know the contents of those letters?

Bedlow. Yes, my lord, he hath been in consultation what answer to make again.

L. C. J. And was all this about the Plot?

Bedlow. Yes, for the subverting the Protestant religion, and bringing in Popery, and raising of an army.

Marshal. Can you prove I knew any of those gentlemen the letters were carried to?

Bedlow. I name one, that was to sir Francis Radcliff.

Marshal. How does he know that I know sir Francis Radcliff?

L. C. J. Well, sir George, will you call your witnesses?

Sir G. Wakeman. Call Mr. Chapman. [Which was done.] My Lord, there was a letter or note of directions from me to Mr. Ashby, and it is affirmed by Mr. Oates, that in that letter I should let Mr. Ashby know I did approve well of the proposals that were made to me to poison the king, and that the queen would assist me in it; and that in the same letter there were directions given what he should take, and how many strokes of the pump he should make use of, and several other things fit for a physician to direct his patient in. Now, my lord, I will prove by this gentleman Mr. Chapman, who is Mayor of Bath, that he received this very note from Mr. Ashby, that he read it from the beginning to the end of it; that there was no word in it, or mention of the king or queen in the whole letter, unless it be of the king or queen's bath. And, my lord, I think he hath a piece of this letter still, that part that was the physical part he tore off, and kept himself. Now it is none of my hand, I never writ a letter to Ashby upon any occasion whatsoever; and I will tell your lordship how it came to pass I did not write that letter; I hope by a providence, for I never but used to write my physical directions with my own hand. It happened that I came home late, and I was very ill; Ashby sent to me for his note, because he was to go out of town the next morning; being weary and indisposed, I laid me down on the couch, and sent for my man, who is an apothecary now, and is better able to write such a letter; I dictated the letter to him, all my family, and all that were by, can testify the same: he knows very well my hand, and hath part of it to produce; for when the queen was there, I made use of him for my apothecary, and those physical directions I sent down for the bath, I sent always to him. He is a very good witness as to my hand.

L. C. J. But you may speak of one letter, and Mr. Oates of another.

Sir G. Wakeman. Why, did I write two letters of directions? what need that? He says he saw a letter with my name subscribed to it.

L. C. J. Yes, it was so, and that you should be assisted by the queen to poison the king; and being asked how he did know that was your hand? he said, I did not see him write, but I saw him in the posture of writing; and when he went away, there was left on the table, and the ink was not dry, a physical bill, which was the same hand with that the letter was.

Sir G. Wakeman. Ay, my lord, but he does not call that a letter, but it was a physical bill, and not a letter; so that there was but one letter.

L. C. J. But there was a note of physical directions in the letter.

Oates. That letter was at least half a sheet of a side, close written, wherein were those passages that I mentioned; but I cannot give an account of all contained in it; but this, my lord, I

remember, that he should take a pint of milk in the morning, and a pint of milk in the evening, and should have so many strokes at the bath; but this was several days before Ashby went to the bath, I believe at least ten. Presently after he came to town. And I say, that this letter that the court asks me how I prove it to be his hand, I prove it thus: I saw him write a bill to an apothecary for Mr. Ashby to take something when he was in town.

L. C. J. But was that business of being assisted to kill the king in the same letter that the physical directions were in?

Oates. Yes, my lord.

Sir G. Wakeman. Then it is the same letter.

L. C. J. How does that follow? might there not be two?

Sir G. Wakeman. There is only that part of it which is the physical prescriptions, he hath torn off the other part.

Then Mr. Chapman was examined.

Chapman. My Lord, the 17th of July last, Mr. Thimbleby came to the bath.

L. C. J. Who?

Chapman. Mr. Thimbleby; a man of about fourscore years of age, a very feeble and infirm man. As soon as he came to me, he told me that sir G. Wakeman recommended me to him, and desired me that I would provide a lodging for him as near the king and queen's bath as I could: I did so; and then he shewed me a letter from sir George, whereof this was the lower part of half a sheet of paper; there was full directions how to take the physic, and after the taking the bolus, to drink the waters so many days, and then to use the bath, and after that the pump, and after that he was to take a dose of pills after his bathing. I took off this latin bill that concerns me, my lord, and gave him the English part.

L. C. J. Did you read the English part?

Chapman. My Lord, my son read it as well as I, who should have come up, and testified the same, but that it is impossible for both my son and me to leave the shop and come together, because of my employment.

L. C. J. But in that letter there was nothing mentioned of killing the king, was there? nor of the queen?

Chapman. No, my Lord, not upon the word of a christian, except it were the king and queen's bath.

Then the Paper was shewn him.

L. C. J. Whose hand is that? do you believe it is sir George's hand?

Chapman. No, my lord: I have brought some of sir G. Wakeman's bills here.

L. C. J. Do you know whose hand it is?

Chapman. No, my Lord.

Just. Atkins. What name was subscribed to that letter?

Chapman. There is none subscribed to this paper.

L. C. J. Was there no name to it?

Chapman. I did not take notice of that.

L. C. J. But look, you, this cannot be that letter, because that letter Mr. Oates speaks of was of sir George's own hand, as he thinks by comparison, and his name subscribed to it.

Sir G. Wakeman. I never writ any other letter, but what was dictated to my man, and sent by Ashby to the bath. My Lord, he hath owned it himself before the House of Lords, that I writ but one letter, and I had my liberty before. Now it was told him there, that if he had mentioned that letter when I was examined before the council, I had been certainly taken into custody then, and should never have had my liberty so long. I had my liberty from the last of September, and could have gone to Constantinople in the time I had my liberty; and certainly I should have provided for myself if I had known myself guilty, seeing so many cast into prison upon that account.

Recorder. It is not probable that Mr. Ashby would communicate such a letter to this gentleman, that had such a design in it.

Sir G. Wakeman. But if any one can, let him prove that I had any other business with him than merely the business of a physician with his patient. My Lord, I have a physician in town, that will testify, that I was to meet him in consultations about Ashby.

L. C. J. The answer is no more than this, That you did write a letter, or there was a letter writ by your directions, to Ashby, which hath not any such matter in it as Oates speaks of; but this answers not Mr. Oates's testimony; it is true, the question will be upon Mr. Oates's credit, how far the jury will believe him: if Mr. Oates swears true, then you did write another letter, and this is not the letter, and there is no contradiction in your answer, to what he says, but Mr. Oates stands with the jury how far they will believe him.

Sir G. Wakeman. Gentlemen of the jury take notice, I never writ any letter but that.

L. C. J. How does that appear? if Mr. Oates swears true, you did write another letter.

Justice Atkins. Mr. Chapman, was there any mention of milk in that letter.

Chapman. No, my Lord. It is ridiculous to drink milk with the waters, it will make it curdle.

Oates. That is not the hand the letter I saw was in.

L. C. J. He says it is not the same hand.

Oates. It was another, a genteel hand.

Justice Pemberton. And there was no mention made of milk in it, the contents are not the same.

Sir G. Wakeman. The contents were the same but as for the milk, it is so ridiculous a thing, that never a physician in England, but will say it is perfect poison. I appeal to Mr. Chapman, who hath so long known the way there used, if any one prescribed milk to any one that took the waters.

L. C. J. Mr. Oates, was there, in the letter you saw, where mention is made of the strokes that were to be received from the pump, any mention of the milk to be taken?

Oates. The direction of the milk was for the time he staid in town.

Justice Atkins. The milk was to be used while he stayed here, was it?

Oates. Yes, my Lord.

L. C. J. Look you, there were two things that he should do, the one of them was to be done while he was here, that was milk, the other was to be done when at the bath, and that was the strokes.

Sir G. Wakeman. No, it is no such thing; for he went away two days after that letter was written.

Just. Pemberton. Mr. Chapman, is this part of the body of the letter?

Chapman. Yes, my lord, upon the word of a Christian; I tore it off myself.

Justice Ellys. If Dr. Oates swears true, it cannot be the same letter.

L. C. J. Your answer to it, which should make it probable, is, That it is ridiculous to prescribe milk. Now he says those were directions what he was to do before he went to the bath.

Sir Geo. Wakeman. Why should I repeat the number of the strokes twice, and write two letters about one thing?

Justice Pemberton. Is there any date upon that letter?—*Chapman*. No.

Justice Pemberton. Off of what part of the letter did you tear it?

Chapman. Off the bottom of it.

L. C. J. North. What, it was writ cross, was it?

Chapman. Yes, I believe so.

Justice Atkins. The truth of it is, This is no evidence, and ought not to be offered as such, for it is but a part of a thing, which we do not know what it was in the whole.

Chapman. I can give it upon my oath that there was nothing in it of the king or queen, except the king or queen's bath.

L. C. J. Mr. Oates, if I remember right, you say the directions that you saw were at the beginning of the letter.

Oates. He was very weak when he came to town, and his directions to him then were, That he should take a pint of milk in the morning, and that when he went to the bath he should have a hundred strokes, or thereabouts.

L. C. J. Was this in the beginning of the letter?

Oates. It was after a line or two that was compliments.

L. C. J. Was there any receipt for physic, in Latin, in it?

Oates. No, my lord, there was not: no, my lord, it was half a sheet of paper; it was full of itself to the bottom; this is not the letter, my lord.

Justice Pemberton. He says, this is neither the hand, nor the name subscribed, nor the contents of the letter; all these differ.

Sir G. Wakeman. I will tell you the reason why my name was not subscribed, I was sick, my man is here to witness, that he carried it himself, and delivered it to Ashby.

Justice Pemberton. But, sir George, you do not observe, that to the letter which he saw your name was subscribed.

Sir G. Wakeman. This then is that I desire may be taken notice of; it is not probable that I should write two letters for the same thing, and I never writ any other letter in my life.

L. C. J. This is that you say, and let it be taken notice of, That it is not probable that you should write two letters, for the same directions how he might use the bath.

Justice Pemberton. This might be writ to serve a turn very well.

Sir G. Wakeman. Then I will tell you the reason why my name is not to it, and so I satisfy you about it as much as I can; I was very ill after I had dictated that letter to him, and went immediately to bed. It was not writ very fair, or something was left out, which he interlined, and so he transcribed it again in his own chamber, and I was then asleep, and so did not put my name to it, and he went away two hours in the morning before I awoke.

Justice Atkins. Who wrote the letter? Was the letter you tore off in the man's name, or in sir George's name?

Chapman. I know not who wrote it.

Justice Atkins. Was it said to be, By my master's directions? What were the contents of the letter?

Chapman. It was only thus, "As soon as you come to the bath, after resting a day, in the first place take your bolus, and after drink the waters." Which he did, for six days together.

Oates. My lord, I would answer to this: this was not the letter, for therein he only told him what he should do before he went to the bath, and how many strokes he should receive: besides, my lord, there was not one syllable of the bolus in the letter, or what bath he was to go into; but when he came there, he was to receive so many strokes of the pump.

Sir G. Wakeman. Nor one syllable of the milk in it neither?

Oates. Yes, there was; he did take milk, night and morning, for I attended upon him.

Sir G. Wakeman. My lord, you see this witness is a Protestant.

Justice Pemberton. Mr. Oates, you say that the letter that you saw was written ten days before he went to the bath?

Oates. Yes, if not more.

Sir G. Wakeman. Why should I tell him of an hundred strokes so long before he went to the bath?

L. C. J. You might mention it to give him satisfaction. Well, have you any more?

Sir G. Wakeman. Yes, my lord, Call Hunt. [Who stood up.]

L. C. J. What do you call him to, sir George?

Sir G. Wakeman. This is my man. What do you know concerning a letter of directions that was sent to Mr. Ashby? Give an account of it.

Hunt. If it please your honour, my master

was out late, and coming home, I told him, Mr. Ashby had sent for some directions for the bath; and being weary and indisposed, (for it was late, and he was not well) said he, 'I cannot write myself, do you take my pen and ink, and write.' I did take the pen and ink, and write; and when I had written, something was false in it; 'Pray,' said he, 'correct that.' I did so, and interlined it, and when my master was in bed I writ it over again, and the next morning, before he was awake, I carried it to Mr. Ashby myself, and there were only directions in it what to do at the bath.

L. C. J. When was Mr. Ashby to go to the bath? How soon after?

Hunt. He was to go the next morning.

L. C. J. If what Mr. Oates swears, be true, this letter that he saw was ten days before, so what he speaks is another thing.

Sir G. Wakeman. I never writ any such letter in my life, and I hope the jury will take notice of it.

Justice Atkins. Do you know any thing of Mr. Ashby's drinking milk while he was here?

Hunt. No, but he was saying he was advised by a friend of his to drink milk.

L. C. J. When, at the bath?

Hunt. No, when he was in town.

L. C. J. When he was in town? that is consistent with Mr. Oates's testimony.

Sir G. Wakeman. My lord, there is a physician that was in consultation with me about Mr. Ashby, I think it of great consequence to shew that I came to him about no treasonable affair, I vow to Almighty God I did not.

L. C. J. If you have any more witnesses, call them.

Sir G. Wakeman. Call Elizabeth Henningham [Who stood up.]

L. C. J. Sir George, What do you ask her?

Henningham. I was present, my lord, at the writing of the letter. His servant writ, and he dictated to him, every word of the letter I saw, but there was no such thing in it.

L. C. J. I am very confident that this is true that you say, but it is not to the thing that Mr. Oates speaks of, and charges you withal: that you did write such a letter as these people mention, and there was nothing in it but like a physician's directions to his patient, I do believe, and this was just when he was going to the bath? but Mr. Oates tells you (if he says true) that this letter he speaks of, to which sir G. Wakeman was subscribed, was ten days before he went to the bath; and that there was no mention of any bolus in that, but the direction was in the first part how he was to use himself, while he staid in town to drink milk, and when he came to the bath, to use the pump, so that this your witnesses say, and you urge, is true, but not pertinent.

Sir Geo. Wakeman. I say, my lord, it is not probable that I should write directions so long before he went.

Henningham. My lord, he said himself he wanted directions to go to the Bath, in my own hearing.

Justice Pemberton. Yes, he might, and indeed he did so, for the first contained none, but how he should behave himself while he was here.

L. C. J. Have you any more witnesses? Pray call them.

Sir Geo. Wakeman. My lord, I have this to say, as I told you before, that I had my liberty for twenty-four days after my examination before the council. Mr. Oates called at the bar of the House of Commons, and there gave an account of this very Letter that he mentions now, I say it was at the bar of the House of Commons. And thereupon the Commons sent an Address to the House of Lords, with astonishment that I was not under confinement; and thereupon Mr. Oates was called to the bar of the House of Lords, and was commanded to give an account what it was he knew concerning me, that should create such an astonishment in the House of Commons: He told them of this Letter, and my Lord Chancellor said to him, Do you know it was sir G. Wakeman's hand? No, said he: How do you know it was his Letter then? I know it only by this, said he, it was subscribed, 'George Wakeman.' If he had such proof as he says he hath now, if he had seen me writing, and came into the room where the paper I writ was yet wet, whether he would not have mentioned it there when he was examined about the knowledge of my hand.

L. C. J. Call your witnesses: But what say you, Mr. Oates, yourself to it?

Oates. My lord, sir G. Wakeman had his liberty because I was so weak, by reason of being up two nights together, one whereof was so very wet, and being hot, wet, and cold, all in a few hours time, so that I thought it would have cost me my life; not being used to such hard services, I did not charge sir George so fully: Though it may be objected to this court, that I was bound to speak the whole truth; and so I did, as opportunity and health would give me leave. And as to the Letter, and what I said about it in the Lords' House, sir George is mistaken. He says here that I said I knew his hand no otherwise, but by seeing sir George Wakeman subscribed to it.

Sir G. Wakeman. I will prove it by the Record.

Oates. Now, my lord, I humbly desire that he may propose his questions to the court: and I desire to know, whether I did say, I did not know it any other ways but by its being signed G. Wakeman.

Sir G. Wakeman. Pray, my lord, be pleased to give me leave—

L. C. J. Mr. Oates, did you mention in the House of Lords, whether you knew his hand or no?

Oates. My lord, I cannot call to mind what I then said, I did say, I saw such a letter, signed George Wakeman; but if he will bring the record, and one that shall swear those were the words, I will leave it to the jury. But this, my lord, I would add, if you will give me

leave; the words I did say as near as I can remember, were these, when they asked me, how I knew sir G. Wakeman's hand? I said, I saw such a letter signed George Wakeman. Now, my lord, upon this information, they did think fit to take sir G. Wakeman up and secure him; and now I come face to face, and am not only to satisfy judges, but a jury, I shew you what reasons I have to believe it, and what they may have, that it was his hand: For I say, I saw him in a writing posture, I saw him lay by the pen, I saw him withdraw from the paper, I saw none but another gentleman there, that was lame of both his hands, and the ink was not dry, and it was the same hand with the letter.

Sir G. Wakeman. Was my name to that note?

Oates. No, I will not swear that; but the character of the hand was the same, if I may judge of writing.

L. C. J. North. Look you, sir George, you spoke of witnesses you would call to prove what he swore in the House of Lords; if you can call any witnesses for that, do.

Sir G. Wakeman. Call sir Philip Lloyd: I hope your lordship will please to allow me, at least, this advantage (I know not whether it be an advantage) that the record of the House of Lords may be made use of as a record here. If I prove it by the record, it will be a good evidence.

L. C. J. Have you that record here?

Sir G. Wakeman. I have a copy of that record, and a witness that will swear it.

Then Sir Philip Lloyd appeared, and stood up.

L. C. J. What do you ask sir Philip Lloyd?

Sir G. Wakeman. I desire to know of sir Philip Lloyd, what Mr. Oates said of me before his majesty and the council, the last day of September; Sir, you were there present, and sent by the king to me, and commanded to bring me in to the council.

Sir Philip Lloyd. I will, my lord, as well as I can, recollect and tell you, as near as I can, what Mr. Oates did then accuse him of. It was upon the 31st of September, Mr. Oates did then say he had seen a letter, to the best of his remembrance, from Mr. White to Mr. Fenwick at St. Omers, in which letter he writ word, that sir G. Wakeman had undertaken the poisoning of the king, and was to have 15,000*l.* for it; of which 5,000*l.* had been paid him by the hands of Coleman. Sir G. Wakeman, upon this, was called in, and told of this accusation; he utterly denied all, and did indeed carry himself as if he were not concerned at the accusation, but did tell the king and council, he hoped he should have reparation and satisfaction for the injury done to his honour. His carriage was not well liked of by the king and council, and being a matter of such consequence as this was, they were willing to know further of it; and because they thought this evidence was not proof enough to give them occasion to commit him, being only out

of the letter of a third person, thereupon they called in Mr. Oates again, and my Lord Chancellor desired Mr. Oates to tell him, if he knew nothing personally of sir G. Wakeman, because they were in a matter of moment, and desired sufficient proof, whereupon to ground a commitment; Mr. Oates, when he did come in again, and was asked the question, did lift up his hands (for I must tell the truth, let it be what it will) and said, No, God forbid that I should say any thing against sir G. Wakeman, for I know nothing more against him. And I refer myself to the whole council, whether it was not so.

Oates. I remember not one word of all this.

Sir G. Wakeman. My lord, this is a Protestant witness too.

Oates. My lord, give me leave to make an answer: when I did report this letter, the council did ask me whether or no sir George was any ways concerned in this letter? I replied, I had it by report, that sir George had received 5,000*l.* of this money. My lord, the council did not press me, to my knowledge; I will not be positive; but if the council did press me, and I did make that answer, I do appeal to the whole board, whether or no I was in a condition to make any answer at all, when, by reason of my being hurried up and down, and sitting up, I was scarce *compos mentis*.

L. C. J. What, must we be amused with I know not what, for being up but two nights? You were not able to give an answer; that when they call and send for Mr. Oates again to give a positive charge, and then you tell us a story so remote: what, was Mr. Oates just so spent, that he could not say, I have seen a letter under sir George Wakeman's own hand?

Oates. My lord, I did, to the best of my remembrance, make mention of that letter that sir George Wakeman writ, before the board. I say, to the best of my skill and knowledge; but I will not be positive in it.

L. C. J. You have heard what sir Philip Lloyd says.

Just. Dolben. What say you, did Mr. Oates make any mention of this letter?

Sir P. Lloyd. Truly, my lord, I can't remember that there was any such letter mentioned. I tell you what I do remember; and afterwards because he came and gave this deposition before the Lords and Commons, that he found such a letter upon the table from sir George to Ashby, indeed I did very much wonder at it, and it made me reflect upon that other passage at the council, of his denying to accuse sir George further, and it hath been in my mind ever since.

L. C. J. And you do declare, that when the lords of the council asked him, whether he knew any thing more particularly against sir G. Wakeman, he did lift up his hands and said, 'No, God forbid I should charge him any further, I know no more against him.'

Sir P. Lloyd. Yes, my lord, so it was.

Oates. My lord, I believe sir Philip Lloyd is mistaken; but however I was so weak, and the

king and council were so sensible of it, that the king himself had like to have sent me away once or twice before, because he found I was so weak.

L. C. J. It did not require such a deal of strength to say, 'I saw a letter under sir George's own hand.'

L. C. J. North. Well, it must be left to the jury: If you have any more witnesses call them.

L. C. J. Mr. Oates, sir G. Wakeman urged it right that he should not have been permitted to have his liberty so long, if you had charged him home then.

Sir G. Wakeman. Call Mr. Lydcot.

Oates. To speak the truth, they were such a council as would commit nobody.

Recorder. That was not well said.

Sir G. Wakeman. He reflects on the king and all the council.

L. C. J. You have taken a great confidence, I know not by what authority, to say any thing of any body. But this is naturally true, that when the council were offended at the carriage of sir G. Wakeman at the board, and therefore sent for Mr. Oates again, doubting in themselves, whether what they had would be sufficient to commit him; for indeed it was only a wild thing, of what was mentioned in a letter of a third person's, that sir George had accepted of 15,000*l.* and received the five; therefore, said they, we will know of Mr. Oates some more particulars, and sent for him in again, and asked him, 'Do you know any thing of your own knowledge? If he had come in then and said, 'Yes, I have seen a letter subscribed under sir G. Wakeman's hand,' would not they have committed him? surely they would. And now the council's not committing him, is an argument that they had not sufficient evidence, and Oates did omit at that time to charge him with this letter.

Then Mr. Lydcot stood up.

Sir G. Wakeman. Mr. Lydcot, have you a copy of the Lords records?

Lydcot. Yes, it is.

Sir G. Wakeman. Pray, what did Mr. Oates say to my lord chancellor in the House of Lords?

L. C. J. You must have that which is proper evidence: You shall have all the fair dealing that can be, and all that can be admitted for your defence shall be.

Sir G. Wakeman. My lord I humbly thank you I find it.

L. C. J. Ay, but this is now what the clerk writes down as minutes. It is an hard construction to make this evidence. Were you present when Mr. Oates was there and said this?

Lydcot. No, my lord, all I say, is this, this is a copy of the record in the Lords House.

L. C. J. Did Mr. Oates set his hand to that record.

Lydcot. Yes, in some places. It is Titus Oates set in diverse places as his hand to examinations.

L. C. J. But is Mr. Oates's own hand set to the record?

Lydcot. I know nothing of that.

L. C. J. This is the objection. It will be hard that if a clerk takes the depositions of Oates or any one else, and takes them as near as he can, but he never subscribes it, and you prove only it is a copy of what the clerk wrote, that cannot be allowed as evidence.

Lydcot. It is a copy in most places of what is under Mr. Relf's own hand.

L. C. J. But you can't swear the clerk writ true?

Lydcot. No, that I can't.

L. C. J. It may be an entry of what the House of Lords did upon the examination: That is not evidence here.

Just. Pemberton. If you can produce any one that heard Mr. Oates give in his information, you say well.

Sir G. W. I believe there is a difference between the entry-book and the book of records; and I hope you will look upon the book of the House of Lords as the highest evidence, beyond any verbal averment. My life is in your hands, I ask you whether it be not so, or no?

L. C. J. North. If there be a record in any court of record, that such a man appeared in court, it is an evidence that he was in court, and a record for it; but when there is an examination in a court of record, these not passing the examination of that court, but being taken by the clerks, we always in evidence expect there should be somebody to prove, that such an examination was sworn and subscribed to.

L. C. J. Have you any witnesses here, that were by, and heard what Mr. Oates did then depose, and can testify what Mr. Oates said when he was called in, and particularly what answer he made to that single question of my Lord Chancellor's how he came to know it was your hand?

Sir G. W. I can bring none but these records or the lords themselves, and I can't expect it from them. And that which they call a record, I am not able to judge whether it be a record or no.

L. C. J. Were there not others called with him into the Lords House?

Sir G. W. No, there was none but the lords themselves.

L. C. J. You should have had the clerks here that made the entry, or saw him set his hand to the examination.

L. C. J. North. This is nothing, but, as he says, a transcript out of the Journal.

Lydcot. I believe it is written most under Mr. Relf's own hand. There is a great deal of it that contains the whole narrative that Oates gave in.

L. C. J. North. You desire to give in evidence what Mr. Oates said at the bar of the House of Lords to what my lord chancellor asked him; if you have any witnesses that can prove it, they shall be heard.

Sir G. W. My lord, I have no witnesses, only the record.

L. C. J. This is only a copy of a narrative.

Sir G. W. If you will not allow it to be a record, I cannot help it.

Recorder. This is no part of the record of the House of Lords, it cannot be allowed.

L. C. J. Well, have you any other witnesses to any thing else?

Sir G. W. I desire you would examine sir Philip Lloyd once more. [Who was called, but answered not.]

Recorder. He is gone out of the Court.

L. C. J. Well, what say the rest? *Mr. Corker*, have you any witnesses in the first place?—*Corker.* No, my lord.

L. C. J. *Mr. Marshal*, have you any witnesses, answer that first, before you enter upon your defence; you shall be heard afterwards.

Then *Sir Philip Lloyd* came into Court again.

Recorder. *Sir George*, here is sir Philip Lloyd here now, what would you ask him?

Sir G. W. *Sir Philip Lloyd*, I desire to know concerning the last examination of *Mr. Oates* and *Mr. Bedlow*, before the council; (you were there present, as I am informed) pray will you tell what you know.

Sir P. Lloyd. To what point, *Sir*?

Sir G. W. To their whole evidence.

Sir P. Lloyd. I suppose what they have given in lately, they have acquainted the bench with already. It was some day this very month, but I would know what it is *sir George* would have me speak to?

L. C. J. What was there relating to *sir G. Wakeman*?

L. C. J. North. But pray consider, whether it be a question fit to be asked of the clerk of the council what was done in council without leave of the board. I do not think he is bound to answer the question.

Just. Pemberton. *Sir George*, if you would ask him to any one particular question, it were something.

Sir G. W. I have done with him; I hope he will excuse me, I have put him to this trouble.

L. C. J. Then *Mr. Marshal*, have you any witnesses?

Marshal. I cannot say I have any direct positive witnesses.

L. C. J. Think not that you shall be concluded, we are not in haste, you shall have time, to say what you will; but if you would use any witnesses, call them.

Marshal. For the present I shall have no use of any.

L. C. J. Well, *Mr. Rumley*, have you any witnesses?

Rumley. I think I have.

L. C. J. I cannot tell of any need you have of any, for there is but one witness against you.

Corker. But he desires that his witnesses may be heard, it is but short.

Sir R. Sawyer. There is no need of it, *Mr. Rumley*; we cannot insist on it against you, you must be acquitted.

Recorder. Will he have his witnesses called? If he will, he shall, though there is no need of it.

Rumley. No, my lord.

L. C. J. Then, *sir Robert Sawyer*, would you say any thing more for the king, before the prisoners make their defence?

Sir R. Sawyer. My lord, there is one thing which I would have answered, that is, the variance between what *Mr. Oates* said before the council, and what he says now, upon the testimony of *sir Philip Lloyd*, who says, that he gave no testimony of this letter under *sir G. Wakeman's* hand; but being asked, whether he knew any thing of his own knowledge, he said, he had only met with a letter from *White to Fenwick*, wherein it was said, So much was proposed to, and accepted by *sir G. Wakeman*: And that he should then declare that he could say more; and lifting up his hands, affirm with a protestation he knew no more. Gentlemen, We hope to give you satisfaction in this matter, for it was after a long and tedious examination; and we shall prove to you that he was in great confusion, being almost tired out with examination, which is not impossible to happen to any man, though of the strongest constitution and memory, after two nights waking, and continual hurrying up and down. We shall call *sir Thomas Doleman* to prove, that he was under great confusion, and that the king and council were so sensible of it, that some of them would have had him gone away a great while before he did go away. Swear *sir T. Doleman*. [Which was done.]

Sir R. Sawyer. You hear what hath been objected and said by *sir Philip Lloyd*, will you tell your knowledge of this matter?

Sir T. Doleman. My lord, *Mr. Oates* did appear before the king and council, I think on the Saturday, before which was Michaelmas-eve. The council sat long that morning, the council sat again in the afternoon, and *Mr. Oates* was employed that night, I think, to search after some Jesuits, who were then taken, and that was the work of that night. The council, I think, sat again Sunday in the afternoon, *Mr. Oates* was then examined, the council sat long, and at night he was sent abroad again to search the lodgings of several priests, and to find out their papers, which he did seize upon, and one of the nights in that season was a very wet night; he went either with a messenger, or with a guard upon him. On Monday morning the council sat again, and he was further examined, and went abroad; and Monday night *Mr. Oates* was in as feeble and weak a condition as ever I saw man in my life; and was very willing to have been dismissed for that time; for he seemed to be in very great weakness and disorder, so that I believe he was scarce able to give a good answer.

Sir R. Sawyer. Was that the time *sir Philip Lloyd* speaks of?

Sir T. Doleman. I think he was called in on Monday night.

Sir G. W. I received the summons on Saturday, by a letter from *sir R. Southwell*.

Sir T. Doleman. You were called in on Monday night, the night before the king went to New-Market.

Sir G. W. I appeared upon Sunday, and was dismissed by sir Philip Lloyd, who came out and let me know that the king said, he would have the hearing of it himself, the next day.

Sir T. Dolenan. Then, Sir, you were called in, and you gave your answer; and the whole council was amazed at the manner of it: For you did not, in my opinion, or in the opinion of several others, deny it so positively as one that was innocent could, but used many great expressions of your own great fidelity and loyalty to the king, and of your family and the services they had paid the crown, and did require satisfaction and reparation for the injury done to your honour.

Sir G. Wakeman. My lord, I will give you a brief account of it; I leave it to you, whether I behaved myself ill or no; I confess, I think I might have behaved myself more submissively; there was nothing of duty wanting in my mind, but I will give you an account of what I said, *verbatim*. My Lord Chancellor told me, that I was accused of the blackest of crimes; that I had undertaken to poison the king. I asked him who was my accuser, he pointed to Mr. Oates, and told me Mr. Oates was my accuser. Says I, Mr. Oates, do you know me? Did you ever see me before? Mr. Oates said, No. Why then, said I, how come you to be my accuser? Said he, I will tell you: I was at St. Omers, where there was a consult of the Jesuits, at which Mr. Ashby the rector of the college at St. Omers did preside; and in that consult it was debated who was the fittest person for that horrid undertaking of poisoning the king, and unanimously it was agreed upon at that consult, that you were, sir G. Wakeman by name: And now he says it was debated here in England. Then, my lord, (said I to my Lord Chancellor) here is no proof, therefore I hope there is no need of any defence. Said he, There is no smoke, but there is some fire. My lord, said I, if you understand by that, there can be no accusation without some guilt, I should be sorry I should not understand both sacred and prophane history better than to think so. Then he pressed me to know what I could say for myself. Said I, my lord, I come of a loyal family, my father had suffered very much, to the value of 18,000*l.* and more for the royal family. My brother raised a troop of horse for the king, and served him from the beginning of the war to the end. He was major to the marquis of Worcester, at Worcester fight, and lost his life by the wounds he received in the king's service. As for my own part, said I, I travelled very young, and came over when Ireton was Lord Mayor, and both by my religion and my name, was suspected to be a favourer of the royal party, and therefore was imprisoned, and did not come out till I had given great security: and the second time I was committed, was, when I en-

VOL. VII.

tered into a plot, the only plot I was guilty of, I conspired with Captain Lucy and several others to attempt something for his majesty's Restoration, when few durst appear for him. I was seized on in my bed; there were several arms found in my apothecary's cellar, and we were both committed to prison; and we should both have suffered death certainly, if his majesty's happy Restoration had not prevented it. When my lord pressed me still to say what I could say for myself, as to what was charged on me; I told him, my lord, I am under the most foul and false accusation that ever innocent gentleman was, and I expect reparation; and upon that they were offended, and I was bid to withdraw. And I added this beside, my lord, that there was not a family in England that was so much instrumental in his majesty's Restoration, as that family was; that Col. Charles Gifford was my near kinsman, so was Col. Carlos; and that the Pendrels were menial servants to the family; and I hope they deserve some favour.

L. C. J. What have you to say, sir George, in your present defence here? Make what observations you will now, upon the testimony hath been given against you.

Sir G. Wakeman. My lord, I say this, if it had been allowed me to make use of the Records of the House of Lords, it would have made all things so evident and clear as nothing can be more; for then, when he was called to that bar, to give an account what he had declared to the House of Commons concerning me, he gave an account of this letter.

Justice Pemberton. Sir George, you must not make mention any more of these things, that could not be given in evidence.

Sir G. Wakeman. Then, my lord, I have no more to say.

L. C. J. What say you, Mr. Corker?

Corker. My lord, I hope the Court will not require that I should bring any particular evidence in confutation of what is here alledged against me; for before I came to this bar, I did not know any particular accusation that was against me; and therefore I could not be ready to answer it and make my defence, or bring particular witnesses to evidence and shew my innocency. Besides, my lord, it is a known general maxim, That a positive assertion is as easy to be made, as to prove a negative, is oft-times hard, if not impossible. Men may easily devise crimes and frame accusations against innocent men in such a manner, that the contrary cannot possibly be demonstrated. No mortal man can tell where he was, and what he did and said every day and hour of his whole life. Therefore I think it is not only positive bare swearing, but it is probable swearing, that must render a man guilty of a crime. Otherwise, my lord, it would be lawful and in the power of Oates and his companions here, to hang, by turns, upon bare oath, all the innocent men in the whole nation, though never so innocent, and that for crimes never so ridicu-

2 U

lous and absurd. And I say this further, he that swears against another, first, ought to be himself a credible witness; and then, secondly, strengthened by probable circumstances; circumstances that bring along with them some probable evidence distinct from the witnesses themselves: Otherwise, I think that the party accused, without any proof of his side, ought to remain in the possession of his own innocence. Now, I think, my lord, there will be never any one of these two necessary conditions to be found in the evidence against me; for, first, the witnesses against me, are persons that are, or at least formerly have been, of scandalous lives.

L. C. J. You should prove it, before you say it. You shall have all things allowed you that are fit; but you must not heap up contumelies upon men unproved, or call men names, when you have proved nothing against them. If you can prove any thing, of God's name do it; prove them as fully as you can.

Corker. I do only say this, They have been reported and owned by themselves, as men that have been of scandalous lives.

L. C. J. If the jury know it of their own knowledge, I leave it to them; but you have proved nothing.

Corker. Well, my lord, but then, in the next place, neither will the positive oaths of men formerly infamous, be any convincing arguments of our guilt: And then next, as to the other circumstances that should render me guilty, Mr. Oates does not here make me guilty alone of this grand conspiracy; but he involves the nobility, gentry, and the whole body of the Catholics in this treason. Now, my lord, I refer it to the judgment of the Court, whether so many persons as he names, and those of such eminent quality, and of such considerable estates in their countries, persons settled under so good a king, in so peaceable a kingdom; so quiet in condition; men of good and virtuous lives and unblemished conversations, before this hour, should hazard their honours, their lives, their families, their bodies, their souls, their all in such a design!

L. C. J. What is this to your case?

Corker. My lord, if this be not probable, I hope I am free of the Plot.

L. C. J. But what is this to your case? Pray hear; you are now making a speech against Mr. Oates and Mr. Bedlow, That they do accuse people of great honour and quality; he hath given no accusation against any as yet, that you are to take notice of. You ought to make use of nothing as an argument to the jury, but of the evidence that hath been given to the jury. If you can make use of any thing that Mr. Oates or Mr. Bedlow hath said here to contradict them, or invalidate their testimony, you have said well. But to talk of such a story, of accusing noblemen, and such like, when there is nothing of that before you; you must first prove what you will infer from.

Corker. My lord, this I take to be of very great concern to myself, that since the truth of

this evidence does depend upon the certainty of the Plot, and this pretended conspiracy against his sacred majesty; if there be no such plot and conspiracy, and if, by circumstances, I can render it improbable, I hope the jury will take it into consideration.

L. C. J. Ay, ay, I am of that opinion, if thou canst but satisfy us and the jury, that there is no Plot, thou shalt be quitted by my consent.

Corker. I will, my lord, shew you the improbability of it.

L. C. J. Ay, do but give us one probable argument, (you being a learned man, and a priest) why we should believe, there is no Plot.

Corker. My lord, I would have endeavoured to have shewn you the improbability of it, but yet I would not urge it, because it may not be so grateful to your lordship. But to me, it is not probable, that so many honourable and virtuous persons should be involved in a Plot so dangerous, so horrid and detestable in itself; wherein, my lord, as he says, so many thousands of people, and even a whole nation, were to be overwhelmed: of which, if a discovery had been made by any person, it would have prevented the utter ruin of so many millions. It is not rational or probable, that such vast whole armies should be raised, and foreign nations concerned in the Plot. All which, notwithstanding all the evidence that can be made out of this Plot, is but only their positive swearing.

L. C. J. Just now you made your objection, that it was a strange thing that such a design should be communicated to so many; now you make it a wonder why so few should know it, only Oates and Bedlow. Your argument before was, that it was a wonderful thing, that so great a concern should be communicated to any one, and now you wonder more, that none should know it but they two.

Corker. Therefore, my lord, I from thence argue thus, that since there is no other evidence, nor further proof of it, than from Mr. Oates, and Mr. Bedlow, I infer there is no such thing at all.

L. C. J. Yes, as for your army, there is more than so: Do you remember what Mr. Dugdale and what Mr. Praunce say?

Corker. Yes, my lord, considering these persons, what they are, their vile oaths, and the encouragement they have met with, by such endearments and caresses, as they have found, their credit is not much to be weighed. Now, my lord, I apply to the accusation that is against myself.

L. C. J. Ay, ay, that is your best way, for it would have been an hard task for you to prove, that there was no Plot. We were in great expectation what arguments you would bring us for it.

Sir G. Wakeman. My lord, will you give me leave to observe one thing more to your lordship and the Court? Mr. Oates does mention in his Narrative, of at least thirty or forty pages, and all this upon oath, (so he saith in the end of his Narrative) but I would observe, that there is

not a letter dated in France, or in the Low-Countries, or received here, but he swears positively as to the date of it, and reception of it; but now, when he comes to mention any thing wherein a man's life is concerned, he will not tie up himself to a month.

L. C. J. Yes, he does, and to part of a month. He tells you, it was the beginning, or middle, or latter end; and he speaks punctually as to the 21st of August.

Sir G. Wakeman. But in all his whole Narrative, he speaks to a day.

Recorder. As my lord says, he speaks punctually to the 21st of August. And as to the letters, he took the date of them in his memorial.

Corker. My lord, I would only take notice, that at the first, Mr. Oates thought to take advantage of some words of mine, at my examination; he told you, that I had gone into France, but that I denied it when I was examined before the justice of peace. My lord, I deny all this; for the justice of peace examined me where I had lived.

L. C. J. We have nothing of this matter here before us.

Just. Pemberton. You are to answer what he says now.

Corker. It is what Mr. Oates says now, for I knew nothing of it till now. Now, my lord, as to that, I say, I did not deny it before the justice of peace that examined me; for I told him, I lived with a certain lady 12 years, till she died; and during that time, I never was beyond the sea but once, which was 5 years since, for the cure of a quartane ague that I had, and I went over to France; otherwise, during all that time that I was with my lady, I did not go beyond sea. Upon this, the justice began to ask me other questions; whereupon, my lord, I recollected myself, and said, Sir, I told you I had not been beyond sea during the time I had been with my lady, but that time, 5 years since; but my lady being dead, I went over last summer in August to perfect the cure of that ague; for I had it 7 years, spring and fall. And this I told him of myself, without asking. The last summer I went over, and there I staid till 2 days before September; therefore I did commit no mistakes in what I said, or used any cloke to cover it. Now, my lord, he says, I went to Lampspring, which is in the farther end of Germany.

L. C. J. He says, you said so.

Corker. Pray ask him how he knows it? he says by my letters: Sure if this man were privy to those great conspiracies which he charges me to be a partner in, it is not probable but that I should tell him where I went; and then if I did tell him so, I must go thither and back again in six weeks time, which was morally impossible to do, to go thither, and to return; for I was but six weeks out of town.

L. C. J. How you argue, Sir! He says, you told him, you went to Lampspring: Say you, Certainly I would tell him true, because he was engaged with me in conspiracies; but this can-

not be true, because of the length of the way. Is this a way of arguing? May not you tell him, you go to one place, and indeed go to another?

Corker. What reason or motive had I to tell him a lie?

L. C. J. It is a hard matter for us to give an account of Jesuits answers, even one to another.

Corker. I am not a Jesuit, I will not say the least untruth to save my life. Then as to my being president, as he calls it, of the congregation; all the congregation, and all that know us, know that Stapleton (formerly chaplain to the queen) is and hath been for 12 years, president of that order. And I am confident that all catholics, and most of the Court, do likewise know it to be true, and by consequence, it is likewise untrue, that there was an agreement made by the Jesuits and Benedictine monks, when I was at Paris, to which I was not privy, but could not go on till I was acquainted with it, and consented to it. Now, my lord, if I be not president of that order, that must be a sham and a story.

L. C. J. You say that, prove who is.

Corker. Mr. Stapleton was, as it is well known.

L. C. J. Call who you will to prove it, if you can.

Corker. Here is one of the lay-brothers of the order.

L. C. J. Who is that?

Corker. Mr. Rumley here.

L. C. J. He cannot be a witness for you, or against you, at this trial.

Corker. My lord, since I did not know of it before, I could not bring any body.

L. C. J. You put it upon yourselves.

Corker. My Lord, I say then I was never at any consult where any such sum of money was proposed or agreed, nor was it requisite or necessary that I should be so much privy to it, for I was not superior of the order, nor president of it, by reason of which my consent should be necessary, or any such letter be writ to me, or any such received from me. And then, my lord, secondly, I must take notice again; he accuses me of being bishop of London, and that I did consent to this agreement of paying so many thousand pounds; if I were guilty of this, and likewise of contriving the king's death, and especially consenting to Pickering's murder of the king, when that Pickering was taken, I should have been taken too, or I knowing myself Guilty, should have fled.

L. C. J. You excepted against Pickering, and thought him not a convenient man, because he was one of your order.

Corker. I hope he does not positively say I consented to the king's death; he says indeed I knew something of it; now I was near him when he was taken. All the officers that came to take Mr. Pickering, came to my chamber. Mr. Oates says he was there at the taking of Pickering; if I were guilty of all these things, being superior and master to this Pickering, it

is a strange thing that he should neither know me, nor own me, nor accuse me, nor take me, nor apprehend me, until almost a month after; all which time I had my liberty; but then taking notice of my going down there, and having further information of me that I had lodged there, he took me into his catalogue of bishops, and he came to take me. But if I had been guilty, of these heinous things, there is no reason but they should have apprehended and taken me when Pickering and Grove, and Ireland, and sir G. Wakeman were taken.

L. C. J. I will tell you what for that: If you were now arraigned for being a priest, you might well make use of that argument, that when they took Pickering and Grove, if they knew you have been a priest, they should have taken you too, and yet for all that you were a priest, you could not have denied it. But would it have been an argument, because you were not then taken, you were not so? So you might be in the Plot, and not be taken, and it is no argument from your not being taken, that you were not.

Corker. I say, my lord, if he came to discover the plotters, it had been his duty to have taken me before, if I had been one in the Plot.

L. C. J. So it had been his duty to have taken you as a priest.

Corker. But I was, as he says, equal in the same crime with Pickering, and therefore he should have taken me, when he took him.

L. C. J. Have you any thing more?

Corker. Besides, my lord, I find he undertook to tell the names of all those that were engaged in this conspiracy, but among them all, my name is not, therefore it is a new invention of his.

L. C. J. That is not said here, you go off from what is said here.

L. C. J. North. Can you prove that? then first do it, and then make your observations upon it, if you can prove what he said before the lords by witnesses; but otherwise you must not discourse upon what you have not proved.

L. C. J. Here is nothing of that before this jury.

Corker. I cannot prove it otherwise than by the record. I desire it may be looked upon, and I refer it to the consideration of the jury, whether if he did say he did not know any thing else of any man whatsoever, but what he had then declared, and I am not there accused; whether this accusation be now to be believed?

L. C. J. That hath been answered already.

Just. Dolben. But it is not proved by them.

Corker. I leave it to the jury whether they will believe it or no.

L. C. J. You say well, if you refer it to the jury, let them consider it.

Corker. I say, they ought to take it into their consideration, they are not rashly to give a verdict against me; and, gentlemen, I believe I may refer it to your consciences, whether you do not know what I say to be true in this business?

L. C. J. Mr. Marshal, what say you to it?

Marshal. Truly, my lord, what I have to say for myself is this. About a month ago I was told the time of my trial was at hand, and being then full of good hope, I did endeavour to provide for it, and I had a great confidence, my lord, that it would succeed; but truly upon the ill success of the late trials, either my hope or my heart failed me, and I did resolve to cast myself upon God and his Providence, and however my silence might have been interpreted, I did resolve, with silence and submission, to resign up myself to whatsoever your lordship and the worthy jury should be pleased to decree upon me. But, my lord, since your lordship is pleased to fling forth some encouragement, and to hang out the white flag of hope, for your lordship hath been pleased to use many gracious expressions, and so, my lord, upon this, I shall, contrary to my former determination, now endeavour to make defence for my life as well as I can: But, my lord, not being so well able to do it, or of so quick capacity as that learned and wise counsel which we have here of counsel for us, to wit, the honourable bench of judges: for, when enquiring, why, by law, we were allowed no counsel? I was told, that the whole bench of judges were always of counsel for the prisoner; and indeed they look upon it as an obligation upon them, as far as truth and justice will permit them, to plead for us. Now, my lord with an humble heart, I would suggest some heads of defence to this learned, wise, and honourable counsel, and leave it to them to manage my cause for me, according to truth and justice, which they are better able to do for me than I for myself. My lord, I have, I thank God, no spleen, nor hatred in my heart, against the worst of my enemies, nor shall be desirous of revenge, I leave them and their proceedings to God; neither am I willing to charge Mr. Oates and Mr. Bedlow with worse than the necessity of my defence will occasion me to say of them. Now, my lord, the best of men may be mistaken in a person, and if I prove Mr. Oates is mistaken in the person in me, then I charge Mr. Oates with no great crime, and yet make my own Defence. Now, my lord, I offer these things for that defence, and I hope your lordship will appear my great advocate, and what I suggest in a few heads, you will, I hope, put it into a method, and manage it better than I can myself. My lord, when I was first brought before Mr. Oates, as truly all that were with me do know, I carried myself with a great deal of courage and confidence, for I was certain that he did not know me, and I did believe it would be only my trouble of going thither and coming back again.

L. C. J. To go whither?

Marshal. To Westminster. And pray take notice of this: when I was first apprehended, I was never sought for, nor named as a traitor in this business; but coming accidentally into an house to ask for one, where they were ac-

tually searching, though I saw the constable at the door, and lights in the house, yet I went in and asked, if such an one was within? I think this confidence will not rationally suppose me Guilty, the House being under suspicion.

L. C. J. Here is no proof of all this.

Marshal. All that were there know it: sir William Waller, which took me, knows it.

L. C. J. Sir William Waller, is this so?

Sir Wm. Waller. My lord, when I came to search the house, I placed one at the door, and him I ordered to let whoever would come in, but no person whatsoever go out. When I was searching, this person comes and knocks at the door, but did not know, I suppose, of any person searching in the house; for when the door was opened, and he let in, and understood it, he presently endeavoured to get away again.

Marshal. By your favour, my lord, I am very loath to contradict what sir W. Waller says in any thing, I would willingly believe him a just person, that would say nothing but the truth: but God Almighty is my witness that I never knocked, the door was open, and I came in of my own accord, both in at the first and the second door. This the constable will testify.

L. C. J. And you would not have gone away again if you could, would you?

Marshal. I will give you better proof of it: while they were searching in an interior room (and this is well known by them all that were there) I was in an outward room by myself, this sir W. Waller knows, and when they came back and found me there, the constable and the rest wondered I was not gone. I was left alone by the door, by myself; the outward door I found open, and there is another door which leads out into an alley, which any man can open in three minutes time, and I know how to do it. Now I could not learn it since I was taken, for I have not been permitted to go abroad, but been under close confinement. But if it be worth the while, and you will give me leave to go there, I can shew you how it is opened in less time than I can speak three words.

L. C. J. Would you have the jury stay here while you go and shew us the door? If you have any witnesses to prove it, call them. Come, to the purpose, man.

Marshal. My lord, I say, if it were worth the while, that it might be made appear, that if I would go away, I could, but I did not get away, but stayed with a great deal of confidence, my lord; therefore I urge this to the point, that Mr. Oates is mistaken. After I had been there a while before Mr. Oates, sir Wm. Waller wished me to withdraw, and after I had been absent a while and came back again, sir Wm. Waller wished me to pluck off my periwig, and turn my back to him and Mr. Oates; I did not then well understand the meaning of it. But afterwards sir Wm. Waller, out of his great civility, came to see me at the Gate-house, and brought with him

two very worthy persons, sir Philip Matthews and sir John Cutler. Sir P. Matthews upon discourse hearing me declare that Mr. Oates was a perfect stranger to me, said, That Mr. Oates, in testimony that he knew me, had given such a certain mark behind in my head. I told sir P. Matthews, if he pleased to pluck off my periwig, he should see whether there was any such mark or no; but he being an extraordinary civil person, told me, he would not give me the trouble, I desire Mr. Oates to declare now beforehand, what that mark was behind my head, and if there be such a mark, it is some evidence that his testimony is true; but if there be no such, then it will appear to this honourable court and the jury, that he did not know me, but was mistaken in the man.

L. C. J. I suppose he does not know you so much by the mark behind your head, as by that in your forehead.

Marshal. But why did he then speak of the mark behind my head?

Recorder. How does that appear, that he did give such a mark?

Sir W. Waller. I shall give your lordship a short account what was done: when I brought him to Mr. Oates, I did desire indeed to see his periwig off, to see if there were any appearance of a shaven crown. After that I had done that, I caused him to withdraw till I had taken Mr. Oates's examination upon oath, and after I had taken that, I desired him to come in again, and I read it to him, and taxed him with it, to which he gave a general denial to every particular, and thereupon I committed him to the Gate-house.

L. C. J. What is this to the business of the mark?

Sir W. Waller. I do not know of any mark; but this I do know, that as soon as ever he came in, Mr. Oates called him by his name.

Marshal. I desire sir Philip Matthews may be called.

Recorder. He is not here: what would you have with him?

Marshal. To ask, if he did not know in particular, that the mark was such a spot behind my head? Hath he not been here to-day?

Recorder. I cannot tell that.

L. C. J. But he called you by your name, before ever you plucked off your periwig; so saith sir William Waller.

Marshal. That which I was to shew, if I could, and truly all my defence lies upon it, is, that Mr. Oates is a perfect stranger to me, and consequently hath nothing against me. Now if Mr. Oates did give a false mark to know me by, and there is no such mark, I think it is a proof that he is mistaken.

L. C. J. Sir W. Waller says the contrary, he called you by your name, and there was no mark mentioned; but if you will suppose what you please, you may conclude what you list.

Marshal. Sir W. Waller plucked off my periwig, and bid me turn my back to him.

L. C. J. That was to see whether you were shaven, or no.

Marshal. Sir W. Waller had not so little knowledge, as to think that the priests go shaven here in England, where it is death for them, if they be discovered. Besides, my lord, it was put in the common news-books which were dispersed abroad in the country, that it was a white lock behind. Well, if there be any thing of favour or inclination to mercy in the court, I shall find it; but if there be none, it will not succeed, though I spoke ten thousand times over; nay, though it were spoken by the tongue of men or angels it would do me no good; therefore I inforce it again to the jury to take notice of, that there was a particular mark given.

L. C. J. That you have not proved.

Marshal. My lord, I would beseech you to take notice of what every man knows, and it is against reason to believe, that sir W. Waller, knowing the world so well as he is supposed to do, should think we went with shaven crowns in England.

L. C. J. And therefore Dr. Oates must look for another mark, must he; how does that appear?

Marshal. All England know, that those who go over to any seminary or cloister, never come over again to England till their hair be grown out, that it may be no mark or testimony that they are such persons.

L. C. J. Do you think all mankind knows that?

Marshal. All that is rational does.

L. C. J. Well, you hear what sir W. Waller says.

Marshal. I always looked upon sir W. Waller as a very learned upright person, and did rely upon what he should testify for my defence, and he knows when Dr. Oates brought in his first testimony against me, I did beg that what he said should be written down by him. Said sir W. Waller, it shall not be written down, but I will promise you to remember what he says. Now I hope sir W. Waller, as an honest and worthy gentleman, will keep his word, and I desire him to do it, as he will answer it before God at the Great Tribunal.

L. C. J. Ask him what you will. You adjure him, and yet you won't ask him.

Marshal. Now my lord, I will tell you how Mr. Oates came to know my name (which is another proof that he is a stranger to me.) When I came first in, I asked Mr. Oates if he knew me? and looking seriously upon me, he asked me what my name was? Now we knowing no more of a man's thoughts but what his words discover, it may seem by that very question that Mr. Oates was a perfect stranger to me. Now when I told him my name was Marshal, he was pleased to answer, you are called Marsh. But my lord, I should consider that which hath been before offered to your lordship, but that I do not much insist upon, that if Mr. Oates had a commission to search for priests and traitors, he was as well bound to tell you I was a priest as a traitor; that is an argument for me, I say. If he had a commis-

sion to apprehend priests, I conceive, if he knew us to be priests, he should by force of such a commission have seized upon us.

L. C. J. He needed no commission to do that, he did search to find out traitors.

Marshal. He heard us particularly named, looks upon us, goes away, denies that he knows us, gives us leave to sleep out our sleep, and if we would to be gone. Therefore it is without any likelihood or probability that he had any thing to say against us.

L. C. J. You have not proved one word of all this.

Marshal. He owned it himself, that he had searched the Savoy for traitors, and did not take us. I speak this out of his own mouth, therefore it is incredible, and I hope the jury will take notice of it: he was searching for traitors, and knowing me to be a notorious traitor as he would have me to be, that he should find me in bed, have his majesty's officers with him, and not seize upon me.

Justice Pemberton. It does not appear to us, you have not proved it.

L. C. J. Sir William Waller, did he say first, do you know me? and then Oates ask his name?

Sir Wm. Waller. I speak solemnly, as in the presence of God, there was not one word of all this.

Corker. I beseech you, may I speak one word?

L. C. J. Have you done, Mr. Marshal?

Marshal. Truly my lord, I am astonished. I protest and confess before God I am astonished. There is Mr. Gill the constable who owned this, and promised to be here to attest it, for there was a dispute about it between Dr. Oates and me: for said I presently, If you took me in bed and knew me to be a traitor, why did you not seize me? he answered me again expressly, before sir Wm. Waller, I had no commission then to seize you: but said I, you acknowledge I was then a conspirator, and such your commission was to seize. You might have declared to the officers you knew me to be a traitor, and have bid them take charge of me: it is impossible that you should so well know it and not do it, sure.

L. C. J. Was there any such thing as this, sir Wm. Waller.

Sir Wm. Waller. Really, my lord, I do not remember any thing of it.

L. C. J. Mr. Marshal, call your witnesses.

Marshal. Is Mr. Gill the constable here? he owned it. I think I had as good make an end, I may leave it here, for what I shall say I find will be to little purpose.

L. C. J. You do not prove what you affirm.

Marshal. My lord, I do not go as Mr. Oates and Mr. Bedlow do, who bring no circumstance of probability or likelihood; they only say they were such a time amongst such and such persons, and such and such things were agreed, but shew no probability of it. But I instance in such things as do carry a probability in themselves, and I name those that were by.

L. C. J. And have no proof of it in the world. And what you call sir Wm. Waller for, he says the contrary, there was no such thing.

Marshal. I say, my lord, what he says is to my great astonishment. Do you remember, sir Wm. Waller, this, that Mr. Oates said there when he was asked if he saw me last summer, I saw you not only in August, but in June and July?

Sir Wm. Waller. I remember something of that.

Marshal. I humbly thank you, sir, for acknowledging that.

L. C. J. What use do you make of that?

Marshal. I shall make use of that. The dispute was so eminent betwixt us that it was impossible to forget it.

L. C. J. Well, have you done, Mr. Marshal?

Marshal. No, my lord, though I had as good hold my peace. I could not have witnesses to disprove Mr. Oates in particulars of time and place, because I could not foresee what time or place he would name. My Lord, I had witnesses here at the time of my last trial to prove and swear, if they might be admitted, that I was here neither in June, nor July, or August, but spent some months at a place called Farnborough in Warwickshire.

L. C. J. Can you prove this?

Marshal. I can prove that I had such as would have proved it then. Now, my lord, this is that I say, if the court be inclined to any favour or mercy; life being a thing of such concern, I hope some little stop may be allowed to have some time to bring such people; but if there be no inclination to mercy, it would be the same thing if the proof were here.

L. C. J. The court will do you all justice here, and that is their mercy.

Marshal. I am confident I shall have great justice done me, I would not have said one word in my defence if I did not believe so. I took heart by what your lordship had said, and I have already done that which I thought most material for it. I have urged first the false mark that he gave to know me by. And then his taking me in bed and disowning to know me. Besides Mr. Oates hath been positive in his testimony about the 21st of August, I could not now have witnesses to disprove that, because I knew it not before, but I can have several witnesses to prove, that I had then witnesses to prove it, sufficient witnesses from Farnborough, who were sure and certain that I was that very day there, and would instance in some particular reasons why I was there that day. And then these witnesses will swear that I was never from thence for three months at any distance, but twice at a neighbour's house, and they can tell the places where I was then.

L. C. J. You come and tell us what other folks could tell, why have you not them here? can the jury take notice of this?

Marshal. I hope you will not throw away my life, when in three days time I could bring witnesses to prove it.

L. C. J. Then we must throw away the lives

of the jury, for they must be kept fasting all those days till they give in their verdict? for they must be shut up till then.

Marshal. My lord, with your leave, there have been those that have been upon their trials, and sent back to prison before the jury have given a verdict, and after tried again.

L. C. J. North. Ay, if they be discharged quite of you.

L. C. J. I tell you the jury must be kept together close till they give their verdict.

Marshal. The jury was not kept up when Mr. Whitebread and Mr. Fenwick were tried, and they were afterwards tried again.

L. C. J. The jury were wholly discharged of them.

Marshal. If you have any regard of my life, you may discharge them of me.

L. C. J. Truly this is as reasonable as any thing you have offered.

Marshal. If your lordship believe what I say is true, you throw away my life unless you grant me this time. I should be a very infamous man if I did not prove it then.

L. C. J. If the jury believe it, I am satisfied.

Marshal. My Lord, I should then come full of shame, if I did not prove what I say; therefore I hope the court will allow me time to prove what I affirm that that particular day, and that the day before, and the day after I was in the country, and stirred not. And then as to the day before the Assumption which he charges upon me and the day after, I can bring witnesses to prove I was those three days at another house almost 50 miles off London; so there is nothing in all that is said against me by Mr. Oates which comes to be determinative and positive in his testimony but I can disprove it if time be allowed me, but if that cannot, I can bring such proof as can testify, that I had before those that could evidence it.

Corker. I told your lordship, I think, that the constables and other persons that came there to take Pickering, said they knew nothing of me, and had nothing to say to me. Your lordship tells me, this I ought to prove. I must confess I could not expect that, when there were so many, an hundred people at least, that all those people coming in I should be put to prove it. But here is a servant that was in the house then, that will tell you the same, that will attest they said they had nothing to say to me.

Justice Pemberton. Call any of your witnesses that you have.

Justice Dolben. Mr. Corker, you remember that the last time you were here at the bar, you desired time because you had not your witnesses; it is now above a month ago, and therefore you have no reason to say your witnesses are not ready. Let us see them; that we may see you did not abuse us.

Recorder. Who were the persons that were then at Tunbridge?

Corker. I tell you sincerely, my Lord, I did not know what they would say, but then I did take notice when my accusation was read against me, that there was a time mentioned of

the 24th of April, that I conspired the killing of the king. Now I could prove the contrary of that I thought, for I remember, and so my friends know very well, that I always in the spring time I go once or twice most commonly about 30 miles out of town, to take the air. So my Lord, from that observation I did really believe I was actually there at that time; and from this belief I did then tell your lordship, that I thought I could bring witnesses that would prove I was at that place then. According to your lordship's order I sent for the gentlewoman that kept the house, and she coming up I asked her, Mistress, said I, can you tell when I was at Tunbridge; said she, I believe you were there about or near April; but that is not the thing, said I, I ask you, can you positively say that it was either before or after the 24th; can you give me any determinate circumstance of it. She could not swear, nor durst, what day I was there exactly; then, said I, go back again; for I resolved to die in my innocency without proof, rather than my witnesses should speak what was false or doubtful.

Marshal. I desire that one Thomas Sumner may be called. He was the man that went down to fetch up the witnesses from Farnborough.

Recorder. What is your witness, Mr. Corker?

Corker. My Witness's name is Ellen Rigby. [who stood up.]

L. C. J. What is it you ask her?

Corker. I desire she may be asked, whether she knows that I was in the house when the search was in the Savoy, when Mr. Pickering was taken? and whether they then charged me or said I was the person that they had nothing at all to do with?

Marshal. And me the same.

L. C. J. Do you hear the question?

Corker. Was not I in the Savoy when Pickering was taken?

Marshal. And I?

Rigby. Yes, you were both in bed then.

Corker. Are you ready to swear it if my Lord will permit you?

Rigby. Yes. And the company that came in never asked for you, but when they saw you, said they had nothing to do with you.

L. C. J. Who said so?

Rigby. The company that came and searched the house for Pickering.

L. C. J. Was Mr. Oates there?

Rigby. Yes, my Lord, Mr. Oates was there.

L. C. J. Did he say that he had nothing to say to them?

Rigby. Several of them did say so, and he among them. They asked me who were in the house? I told them several. They said they had nothing to do with any but Mr. Pickering.

L. C. J. North. Who did you tell were in the house?

Rigby. I told them there was Pickering, Marsh, Heskett, Corker, Smaydon the porter and his wife, two children, &c.

Corker. Now it is incredible he should search

for traitors, and as he says knew us to be such and should not ask for us: nay, when he saw us, leave us there, and never bid the officer secure us.

Just. Pemberton. Who did ask you the question?

Rigby. There were five or six, Mr. Oates and Mr. Bedlow.

Corker. I desire to know this of you, Have you not heard all along that Mr. Stapleton is President of the Benedictines, and how long he hath been so, for she was housekeeper?

Marshal. Who is President of the Benedictines?

Rigby. Mr. Stapleton.

Corker. How long hath he been so?

Rigby. Four years and a quarter, for any thing I know to the contrary.

L. C. J. In his absence, who was?

Rigby. I know not who.

L. C. J. Did not Corker officiate?

Rigby. Never in his life.

L. C. J. Do you know who did?

Rigby. I can tell he did not.

Corker. Pray ask her if she knows of any consult of the Jesuits in the Benedictine convent?

L. C. J. How should she know that? was she one?

Corker. Because there can none come to the house, but she must entertain them; there was no other servant at all but she.

Marshal. Now, my lord, since she is here, let her see Mr. Oates and Mr. Bedlow; ask her whether ever she saw them in the house in her life.

Rigby. I saw Mr. Oates in the house; he came a begging to Mr. Pickering for charity.

L. C. J. What was the time?

Rigby. This summer was twelvemonth; And Mr. Pickering bid me shut the door, and never let that man come in again.

Marshal. That was in the very heat of the Plot the very nick of time when he was employed to carry on the conspiracy, as he says; and that then we should suffer him to be in such necessity; and sent away with a flea in his ear, when he could gain such advantages by discovering us: Is it likely that we should trust him with the whole Plot, and yet suffer him to want? I appeal to your lordship and the jury whether that be probable?

Then Sumner appeared and stood.

L. C. J. What say you to him?

Marshal. I desire he may be asked, whether he does not know that here were witnesses to testify I was then at Farnborough.

L. C. J. This is not a question to be asked what another body can swear.

Marshal. He was sent down, my lord, to fetch the witnesses up.

L. C. J. Well, to satisfy you, we will ask the question, though it be improper: Were you sent down for witnesses?

Sumner. Yes, my lord.

L. C. J. Why did not they come?

Sumner. They did come.

L. C. J. Why are they not here? The last sessions was adjourned particularly to a certain day, and you knew when you were to be tried.

Recorder. For this very reason, that all might take notice of it, it was adjourned to the 16th day at this place.

Marshal. Your lordship does suppose we have a better purse than we have: Would you have them leave their employments, and come up, and be at great charges? it is not in the capacity of every one to endure it.

L. C. J. What would you have us do in this case?

Marshal. What is but reasonable. Give me but three or four days time, and I can have my witnesses up.

Just. Dolben. I pray ask them whether they were not told of the time of their trial?

L. C. J. Why did not you send for them before, when you knew what day it was to be?

Just. Dolben. You knew as much before as you do now. If you did not, what did you send for them up for then, more than now?

Corker. There was no certainty at all of the time when we should be tried. We were told it was near, but not the very day; some said the 12th, some the 14th, some the 16th, some not at all.

Recorder. You must not say so; for notice was publicly given here that it should not be till the 16th, and the sessions was adjourned till then.

Marshal. I was told it would be two or three days after last term. I confess God Almighty hath been pleased to give me a long imprisonment to prepare for my last close. I do not fear death, though it should appear in far more frightful shapes, than that we may be like to suffer. So, my lord, it is not so much concernedness for my own life, as for honour and justice of the court, that I plead for a respite to have witnesses that may positively and particularly disprove the testimony of Mr. Oates. And all the world will think it an hard case when I do attest and call to witness such as have a great probability to prove what I say to be true; when I can have such a numerous train of witnesses to prove that I was that particular day threescore miles out of London, and would positively swear it, if permitted. It will be hard, and will, I fear, draw an heavy censure upon this honourable court, if some time be not allowed.

L. C. J. It cannot be allowed you, for then we must tie up the jury, and make them fast all the time.

Marshal. You may discharge them of me.

L. C. J. We cannot do it now.

Just. Pemberton. There is no reason for it now, for you had time for your witnesses before. What do you come here to make a great harangue about witnesses which you had, and did not bring them.

L. C. J. Did you know they would come to prove, to any day?

Marshal. I know they could prove such a day.

VOL. VII.

L. C. J. Why then were they not here?

Marshal. Pray, my lord, give me leave. I hope I shall not speak more than is reasonable and just, and then I care not how it succeeds. Every judge is as much obliged to follow his conscience, as any formality in law.

L. C. J. Pray teach your own disciples, don't teach us: You come and talk here what regard we are to have to our own consciences, as if we did not know that better than any papist or priest in the world.

Marshal. I suppose that, and it is rational too. And I do suppose that this bench is infinitely just and merciful, and upon that supposition I plead. Then if there be great reason to believe that I can disprove Mr. Oates in his positive testimony, then there is great reason to believe that I can save my life. And if there be reason to believe that I can save my life, I suppose there will be more regard to this than to any formality of law. Be pleased to ask him whether he were not to fetch witnesses that could attest this.

L. C. J. What can you say?

Sumner. I went down into the country for witnesses.

L. C. J. Why did you not bring them up against this time?

Sumner. I had no order for this time.

Marshal. We did not know when we should be tried.

Cl. of the Peace. My lord, I did tell the messenger when the sessions was.

L. C. J. Did the officers here acquaint you when the sessions was?

Sumner. I had order from capt. Richardson at first, I did ask leave to go down to fetch his witnesses; says capt. Richardson, you have order to do what he shall direct, to provide him his witnesses; that was for the last, not for this.

L. C. J. How far were the witnesses off?

Sumner. Threescore miles.

L. C. J. Why, you have had notice long enough of your trials, to get up witnesses threescore miles.

Recorder. Capt. Richardson, Did not you tell the prisoners when their trials would be?

Justice Dolben. They had all notice of the sessions by the adjournment, and should have provided for it.

Capt. Richardson. Ever since the last sessions they have all of them had the permission of any people to come to them in order to the preparing for their trials.

L. C. J. As when?

Capt. Richardson. As for this sessions.

L. C. J. First you did know that the sessions did begin on Wednesday; if you had prepared yourselves against Wednesday, you had been delayed but for two days.

Marshal. But how could I prepare witnesses for that which I did not know would be testified against me?

L. C. J. Why did you prepare them for the last trial? why had you not the same witnesses you had then?

Marshal. Because it was upon somewhat he had said upon my taking, that he saw me in June and July, I did provide witnesses for it.

Justice Pemberton. He holds to the very day he said first, and this is but plain trifling.

L. C. J. Truly, if the merit of your cause be no better than such weak assertions, your defence is but very poor.

Marshal. But that I humbly offer, is this, whether you will believe I can have such witnesses, and therefore stay till they be sent for.

Justice Dolben. We have no reason to believe you.

Justice Wyndham. We have no reason to believe you, when you have had time to prove it, and have not got them.

L. C. J. Why were they not here now?

Marshal. My lord, I do give you a double reason. Then, my lord, I offer this, that my name is in no list, paper, nor narrative that ever was put forth; and if I had been guilty, as he says, would not he have named me amongst the other conspirators?

L. C. J. No, I think he should not, it would have given you notice, and too much opportunity to have gone away.

Marshal. He gave me leave, when he left me in my bed.

L. C. J. But yet for all that it does not prove your innocency. All people that are guilty, do not run away for it, for you have abundance of priest-holes, and hiding-holes. Well, have you any more witnesses? if you have, call them.

Corker. Call Alice Broadhead [but she did not presently appear;] then I desire Mrs. Eliz. Sheldon may be called; [Who being in the gallery, answered and came down.]

Marshal. I do desire to know whether she knows who is president of the Benedictine Monks?

L. C. J. Who is president of the Benedictines, mistress?

Sheldon. Mr. Stapleton.

L. C. J. How many years hath he been?

Sheldon. A great many years, my lord, to my knowledge.

L. C. J. How many?

Sheldon. Four or five years.

Recorder. Where is Dr. Oates? call him.

L. C. J. But if he were absent did not Mr. Corker officiate in his place?

Sheldon. Never, my lord.

Corker. Mr. Stapleton was actually at Paris when I was there, and therefore I could not officiate in his stead; there is another that can testify the same, that is Alice Broadhead, [Who appeared then.] Pray ask her the same question.

L. C. J. Who is president of the Benedictines?

Broadhead. Mr. Stapleton, I have known him for many years, and there hath not been for a great many years any other.

Corker. Then I do desire that I may observe this, That Mr. Oates doth seem to accuse me positively of nothing, but only of con-

senting to the Benedictines contribution of 6,000*l.* which he says they could not do without my leave, because I was their president; but I have brought three witnesses which say, and are ready to swear, that Mr. Stapleton is president, was so these many years, and I never was so in my life.

Recorder. Here is Dr. Oates again now. [But he was not examined.]

L. C. J. Have you done now, all three?

Sir G. W. I say, my lord, I find that it was imputed to me, at least as a sin of omission, that when I was before the council, I did not sufficiently detest, and abominate, and abhor this crime that is laid to my charge. I now detest, abhor, and abominate the fact charged on me. I call God to witness I never was in any consultation about it in my life, I never received any bill for any money upon this account, nor did ever receive any money.

L. C. J. Had not you 2,000*l.*?

Sir G. W. No, my lord, I wish I may never enter into the kingdom of Heaven, if I received one farthing for any such thing.

Corker. He says, that I was employed in distributing monies; and I profess before God, I never distributed any money upon such account; all that I had was an annual annuity which I gave amongst the poor. I protest before God, I never in my life did deliver or hold it as a matter of faith or commendable doctrine, that it was lawful for the promoting of the Catholic religion, to murder the king, or destroy my country. And I renounce and detest it from the bottom of my soul. And this is all can be expected from a good Christian upon that account; and I hope the jury will have no prejudice against me for that; and neither Pope or any breathing upon earth can dispense with me from that obligation.

Marshal. And if no door can be opened for a merciful sentence upon any consideration offered by the living; at the loud cries of the dying, I hope there may; and all the earnest vows, and all those solemn protestations of innocency by such as were lately executed for the crimes we stand here charged with, left behind them as sacred testimonies of their loyalty and unviolated faith to the king. And I beg leave to put before the eyes of this honourable court, and this whole assembly, this landskip of horror, wherein may be seen those caves of darkness, those baths of glowing sulphur, such men must be eternally judged to be condemned unto, if what they then spoke had not the characters of the fairest truth found instamped upon it. Now if a right survey be taken of this landskip, and it be well observed what these men so solemnly signed and sealed to with their last breath, it must be confessed they either conspired finally to damn their own souls, or were not conspirators against the king, nor were they guilty of what was charged upon them. Present content, where the enjoyment is like to continue, works with a strong influence upon human nature, and chains it fast to the present world. But, my lord, with

the approach of death, reformation of conscience does offer to advance, and we do observe those who have lived a very ill life, frequently to make a good end; but, my lord, it is a thing scarce ever heard of or known, that those who have lived all their lives well, should die ill. Nor can such as were looked upon while they lived as persons of much integrity, great candor of spirit, and unquestionable truth in all their attestations, dying, should become prophane to blasphemy, become irreligious even to sacrilege, and false even to the worst of atheism. My lord, this cannot readily be believed, or easily imagined; nor will be, though it be possible; and yet all that will not believe this, must own an innocency where guilt is so strongly supposed. And if there be great cause to doubt whether those that were lately executed, and were supposed to be leaders in this conspiracy, were guilty upon the consideration of those solemn dying protestations they have made to the contrary; I humbly conceive it may be much more rationally doubted, whether others brought in only by the by, as I am, as a letter-carrier, and only as marginal-notes to the great conspirators, may not wholly be innocent. Now, my lord, if no credit be to be given to the protestations of men dying, that have ever been judged sober and just; how can faith be reposed in the testimony of such living persons as know no God nor goodness? And if the reputed just man at the very point of death can be judged rationally false in his protestations, though death be in his eyes, and hell threatening to ingulph him; may not he, my lord, who hath owned himself a villain in print, be thought false in his testimony, while preferment tickles him, rewards march before him, and ambition beckons to him, which he greedily follows, though God and conscience tell him it is unjust?—England is become now a mournful theatre, upon which such a tragedy is acted, as turns the eyes of all Europe toward it; and the blood which hath been already spilt, hath found a channel to convey it even to the remotest parts of the world. And though it inspires different breasts with different resentments, yet it may speak a language that none who are friends of England will be willing to understand. Our present transactions here, are the present discourse and entertainment of foreign nations; and without all doubt will be chronicled and subjected to the censure of ensuing ages. Now, my lord, I have great reason to believe, that not any one of those honourable persons that now sit judges over us, would be willing to have their names writ in any characters, but those of a just moderation, of a profound integrity, of an impartial justice, and of a gracious clemency. And though we would not be all thought to be well-wishers to the Roman Catholic religion, yet we would be all thought friends to religion; and though we exclaim against idolatry and new principles of faith, yet we all stand up for old Christianity; whereas if the testimony of living impiety be applauded and admitted of, and the cries of

dying-honesty scoffed at and rejected, what will become of old Christianity? And if any voice, cry, or protestation of dying men may pass for truth, and obtain belief, where is now our new conspiracy? The question now seems to come to this, the belief of Christianity now in Roman Catholics, and the appearance of their innocency, are so fast linked together by those solemn vows and protestations of their innocency, made by the late executed persons, that no man can take up arms against the latter, but must proclaim war against the former. Nor can our innocency bleed, but our Christianity must needs by the same dart be wounded. Nor can any tutelar hand stretch itself forth—

L. C. J. North. You speak *ad faciendum populum*, and should not be interrupted, but only I think you lash out a little too much.

Marshal. I speak this to add the testimony and solemn vows of the dying, to what we say living for our own defence. And I desired they may be put in both together, and weighed in the scales of an impartial judgment. Now, my lord, I say, the question seems not so much whether Roman Catholics are conspirators, as whether indeed they be Christians. Nor is it the great doubt now whether they designed to kill the king, but whether they believe there is a God. For whoever grants this last, the belief of a God, of a Heaven, and an Hell, and considers what asseverations they made at their death, what solemn protestations they insisted upon, does with the self-same breath proclaim them innocent.

Justice Pemberton. But Mr. Marshal, will you go on to affront the Court in this manner, to vouch for the truth of their speeches, which they made at the gallows, and affirm them innocent after they have been found guilty, and executed according to law?

Marshal. My lord, I do not avouch them innocent, I only desire there may be consideration had, and that the words of such dying men may be thought of. If they did believe a God and a judgment-seat that they were going to, could they be innocent and Christians too?

L. C. J. I was loth to interrupt you because you are upon your lives, and because it is fit you should have as much indulgence as can be allowed. Your defence hath been very mean, I tell you beforehand; your cause looked much better before you spoke a word in your own defence, so wisely have you managed it.

Recorder. But really for your particular part, Mr. Marshal, you abound too much in your flowers of rhetoric, which are all to no purpose.

Marshal. I hope it would be no offence to insist—

L. C. J. But I will tell you, and I will be heard as well as you, Sir; because of the protestations of these men, which you make so much a stir about. If, you had a religion that deserved the name of a religion, if you were not

made up of equivocation and lying, if you had not indulgences and dispensations for it, if to kill kings might not be meritorious, if this were not printed and owned, if your popes and all your great men had not avowed this, you had said something; but if you can have absolutions either for money, or because you have advanced the Catholic cause as you call it, and can be made saints as Coleman is supposed to be, there is an end of all your arguments. There is a God, you say, and you think we shall go to that God because he hath given us the power, we can let ourselves in and turn the key upon heretics. So that if they kill a king, and do all the wickedness they can devise, they shall go to heaven at last; for you have a trick, either you can directly pardon the killing of a king, or if you excommunicate him he is no king, and so you may kill him if it be for the advancement of religion. But it will be in vain for you or any priest in England to deny this, because we know you print it and publicly own it, and nobody was ever yet punished for any such doctrine as this. Therefore all your doings being accompanied with such equivocations and arts as your religion is made up of, it is not any of your rhetoric can make you be believed. I do believe it is possible for an atheist to be a papist, but it is hardly possible for a knowing Christian to be a Christian and a Papist. It is hardly possible for any man of understanding, setting aside the prejudices of education, to be a Papist and a true Christian, because your doctrines do contradict the foundations of Christianity. Your doctrine is a doctrine of blood and cruelty, Christ's doctrine is a law of mercy, simplicity, gentleness, meekness and obedience; but you have nothing but all the pride that ever a pope can usurp over princes: and you are filled with pride, and mad till you come again into the possession of the tyranny which you once exercised here: inso-much that it is strange to me, but that princes abroad think you more conducing to their politic interest, else sure they could not endure such spiritual tyranny to lord it over their souls and their dominions. Therefore never brag of your religion, for it is a foul one, and so contrary to Christ; that it is easier to believe any thing, than to believe an understanding man may be a Papist. Well, Sir, if you have any more to say, speak it. You have provoked me to this: and indeed I ought to do it, because you have so much reflected on the justice of the Court: but if you have any thing to say in your defence; speak it, or to your own particular case. As for your religion, we know what it is, and what merciful men you are: and if we look into the bottom of you, we know what you were ever since queen Mary's days: and if we look into the Gunpowder Treason, we know how honest you are in your oaths, and what truth there is in your words, and that to blow up King, Lords and Commons, is with you a merciful act, and a sign of a candid religion; but that is all a story with you; for it is easier for you to believe, that a

saint, after her head is cut off, did go 3 miles with her head in her hand, to the place where she would be buried, than that there was a Gunpowder Treason. [At which the people gave a shout.]

L. C. J. North. You must not meddle any more with the speeches of those that died.

Marshal. I did not intend, my lord, to call any thing of justice in question.

L. C. J. What, do you think we will be imposed upon in this manner? Perhaps you have tricks enough to gull your own party, but you have not to deceive Protestants; they can look through all your arts; nay, I never saw such men of weak parts, as your priests generally are; so that I wonder you should have any disciples but silly women, or men without learning.

Marshal. If we were guilty of this conspiracy, we should gull only ourselves.

L. C. J. Go you on with one harangue, I warrant you I will give you another; you shall not be hindered to say any thing that is pertinent; but this is not at all so. We have a bench of aldermen have more wit than your conclave, and a Lord Mayor that is as infallible as your Pope. Have you any thing more to say for yourselves?

Marshal. It is not proper to contradict your lordship, but it is a wonder you should know our religion better than ourselves; for I know not of any such doctrines owned amongst us.

L. C. J. No! then I believe you have not read your own books; I suppose that your business is not now to read, but to seduce silly women or weaker men. What, don't you publish them all over the world? Is there any *Index expurgatorius*, into which you have put these doctrines? Surely you know not any thing, if you know not this.

L. C. J. North. If you have any thing more to say in the proper defence of your trial, pray speak it now.

Corker. As to those damnable doctrines, we profess ourselves innocent of them. I desire that the Jury may not go upon such a prejudice, that I entertain such principles of religion, as matters of my faith. They are horrid crimes, I protest against them, and own them not. I desire the jury to take notice of it.

Marshal. I have this further to offer to your lordship, that Mr. Bedlow owned before the Lords that he knew no more to be guilty than he had declared, and amongst all those I am not named; and this was a month or six weeks before I was taken.

Justice Pemberton. There is no such thing at all proved here, or given in evidence, and therefore why do you insist upon it?

Marshal. In this I appeal to the knowledge of your lordship: and if you know it, I hope you will be pleased to acquaint the jury with it.

L. C. J. I do not know for my own particular, what answer was made; I was not in the House, nor do I know it.

Judges. None of us know it.

Marshal. I desire the worthy jury to take notice, that among all the persons named; there is no such name mentioned as mine.

Justice Pemberton. There is no such thing proved here.

Marshal. They deny all the Lords' Records.

L. C. J. Well, have you done? Look you, gentlemen of the jury.

Marshal. I desire but one word: These things I have insisted upon as far as I can for myself; but the main matter I relied upon was, that Mr. Oates did not know me, neither as to my calling, conversation, words nor actions. He can bring no person, man nor woman, that ever saw him in my company, nor took notice of our meeting together, nor Bedlow neither; he can name no place where he saw me, none but the Savoy, against which no proof can be found. And then at the searching of the house, I desire the jury to take notice, that at that time he disowned us, and said he did not know us. A sufficient rational cause cannot be given why, he should say now he knows me, and did not then take me.

Justice Pemberton. You have said all this before.

Marshal. Then, my lord, for a conclusion, I have been told, and I will only desire the jury to take notice of it, that every jury that finds a man guilty of death, upon the testimony of witnesses that come in against him, do take it solemnly upon their consciences, that what such witnesses swear is true.

L. C. J. That they believe they swear true: For we have no infallibility with us: It is one thing to say it is true, and another thing to say we believe it is true. Look you, the jury may give a verdict that is false, and yet go according to their consciences. Do you understand that, priest?

Justice Pemberton. You need not teach the jury what they are to do.

Marshal. But considering in case an oath be false, and the jury have reason to doubt what the prisoners say in their own defence, upon what they hear or have learned of their own knowledge, if they find such doubt grounded upon that double matter, then they are in great danger to bring the fault to their own doors, and make the crime of perjury their own.

Justice Pemberton. What, do you go over things again and again?

L. C. J. All this signifies but little; if you had Popery here, you would get but little by it. We should hardly part with our Peter Pence for all your speeches. We all know what things are, it is not a parcel of words patched thus together, will do your business.

Marshal. I wish all thoughts were as open-faced as ours are.

L. C. J. Look you, gentlemen of the jury, here are four prisoners; as to one of them, that is Rumley, the truth of it is, there is but one witness against him, and by the law there ought to be two; so I cannot say, but you

ought to discharge him: we do not find that there is testimony sufficient, according to the law, to condemn him, and therefore you ought to acquit him. As to the rest, here is sir George Wakeman, Mr. Corker, and Mr. Marshal; there hath been two sorts of evidences given, I will repeat them as well as I can, and as short as I can. There hath been a general evidence, and a particular evidence: there was a general evidence given by Mr. Dugdale, of the Plot in general, and by Mr. Praunce, and something of intimation by Mr. Jennison. These of Dugdale, Praunce, and Jennison, do not mention so much as the names of the three gentlemen that are upon their lives; but I will tell you why it was necessary, and answers a great objection that they seem to make: for you are to believe men, say they, and to believe men upon probable circumstances, something to guide you besides the positiveness of an oath; and that is well enough said: Now here is something besides, and that is the Plot; that there was a conspiracy to introduce popery, by the likeliest means, which was to kill the king; and that such people as these men were to do it. Now that there was such a general design to do it, is a circumstantial evidence, (as to these men I call it so.) And these are circumstances which may answer the objection they make, when they say, You are not to give credit to positive oaths without any thing to govern you by; for you have this to govern you by, besides the oath, that there was a Plot.

The testimony of Mr. Jennison does go more particularly to the business of Ireland, which I would observe, by the way, for the sake of that gentleman that stands so much upon the innocency of those men, and would have them to be believed upon their own assertions, because he says they dare not die with a lye in their mouths. I believe it is notorious enough, Mr. Jennison that comes here is a man of quality, and one against whom there is no objection, and he is justified by one or two more. He says, he saw Mr. Ireland the 19th of August, when he, to his death, took upon him to aver he was then in Staffordshire, and brought several of his own religion, who would outface it to the court, that he kept them company so many days, and was in the country all the while. There was a maid, before this, that came and testified that she saw Ireland, and saw him at his own door, in August; but this gentleman comes and proves it upon him more particularly, and tells you when, the day of the week, and of the month, that he was with him at his own lodging, that night he came from Windsor, that he was pulling off his boots, and pretended to come post from Staffordshire, and so that he was in Staffordshire is true, because he came thence post, but he hath always constantly denied that he was here, and that may serve for the integrity even of their dying oaths. And you are not going, according to your own doctrine, so immediately to Hell, I hope you suppose a

purgatory, where you may be purged from such peccadillos as this of dying with a lye in your mouths.

As for the testimony of the particular evidence, first, against sir George Wakeman, Mr. Oates says he saw a letter subscribed George Wakeman; and it was writ to Mr. Ashby, and therein, among other expressions, was this particular, That the queen would assist him to kill the king. He was asked, How he knew it was his hand? He said, He had never seen his hand before, but afterwards he saw him writing, (as he thinks, writing,) in a writing posture, and there he looked upon that paper when he was gone from it, while it was wet, and that character, to his thinking, was just the character of the letter. Now I must observe this to you. First, Supposing it to be true, yet it is somewhat hard, for a man that had never known a man's hand in his life, to see a hand to-day, and some time after to come and see his hand to a bill of physic, and to recollect the character so much backward, as to know, this is that, or that man's hand that I saw before. It is one thing to know hands we are used to, but it is another thing, if we see a hand we never saw before in our lives, and then by reflection at another time, and by comparison of hands to say this is the same, that is hard; but that is supposing it to be true. Sir George Wakeman, as all people will that are accused, does deny the fact, and says there was no such thing. Against him besides, he says he saw, in a book that the Jesuit priests kept among them of their transactions and affairs, he saw, in Harcourt's chamber, a book, wherein was written, this day, (and there was a certain day in August named, but he cannot tell what day,) this day agreed with sir G. W. for 15,000*l.* to which he consented. And under was written, Received 5,000*l.* part of 15,000*l.* by order of Mr. Coleman. George Wakeman. This he says he saw, and he believes that to be the very same hand he saw before, so it is by a comparison of hands. He does not charge sir George Wakeman, to the best of my memory, with any positive things of his own knowledge, more than as I tell you of this matter.

Sir R. Sawyer. Yes, my lord, he says he saw his commission.

L. C. J. Indeed he does say, he saw a commission in his hands, to be physician-general of the army that was to be raised. And that he denied 10,000*l.* and would have 15. The truth I leave with you, gentlemen. Look you, gentlemen, we will show ourselves what we ought to do, let them be as they will; we would not, to prevent all their Plots, (let them be as big as they can make them) shed one drop of innocent blood, therefore I would have you, in all these gentlemen's cases, consider seriously, and weigh truly the circumstances, and the probability of things charged upon them. There is an additional evidence against sir George Wakeman, by Bedlow: he says he saw him have a note for 2,000*l.* which was

said came from the queen, there were discourses of doubtful words, but whether they be plain enough to satisfy your consciences, when men are upon their lives, I leave to you. That sir George Wakeman should say, Are you ready for me? Why am I drilled on thus, in a matter of this concern? This he would have to imply the poisoning of the king; but there is but one thing that sounds any thing plain to the matter, and that was this, said he, If they miss (speaking of killing the king) if they miss at Windsor, and you miss your way, then it shall be done at New-Market. This he did swear directly, and then sir George Wakeman replied, He would be ready. Now if you believe this, then there are two witnesses against sir George Wakeman, for the matter of the bill alone would do nothing, but when he says he saw such a bill, it must be for something; and if he did say so, If they miss killing him at Windsor, and you miss your way, we will do it at New-Market; and he replied, I will be ready, the thing is made plain; I leave it to you; and this is all the evidence against sir George Wakeman, as I remember: I hope my brothers, if they remember more, will repeat it to you. I cannot undertake to repeat every word; I remember so much as is material, and my brothers I hope will help me out, in what they have better observed.

As to Mr. Corker, Oates says, that he saw a letter under his hand, that is, his name, I suppose was to it, wherein he consented to the raising the 6,000*l.* which was to be raised out of the Benedictine estates, and was in order to the carrying on of this Plot. I do not find that he does prove that he did know Mr. Corker's hand. And he says of him further, he was their president, and so it was necessary to have his consent for the raising the 6,000*l.* and particularly he says, that he did except against Pickering's being designed for the murdering of the king; for, said he, He is a man that waits at the altar, and methinks you should choose some fitter person. For that, says Mr. Corker, which he says, that I was president; I was not president; and he makes it necessary for me to set my hand, because I being president, it was supposed it could not be done without me: and Dr. Oates does intend such a thing by his enforcing of it too: but he does produce to you two or three witnesses, that do say, Mr. Stapleton hath been president for four or five years; and said he, If I were not president, what needs all this ado about my consent? So he contradicts him in that particular, that he was not president, and it is not only a bare immaterial thing, because his being president made his hand more necessary to the raising the 6,000*l.* And for that matter of his saying, that he did except against Pickering, and they might have chose another, he does not charge him to be actually at the consultation, but he says he knew of it, because he said Pickering was not a fit man to do it. And he said, they had better choose a layman. He proves no fact, but only these words. And Mr. Bedlow

he speaks against him, and what he says is rather less than what Oates says. For it is, that he talked with La Ferre the priest about the Plot in general words. It may be, he was talking with some body else, and yet he could hear that they talked together in general about it. That is all against him.

Against Mr. Marshal, it is rather less than against Corker, that is, that he did consent to the 6,000*l.* that should be raised among the Benedictines, he being a Benedictine too, and that he took exceptions against Pickering, as Corker did, that it was not convenient to employ him in killing the king. And this is that Oates says, and that he was a carrier of letters up and down, and a factor that way. And Bedlow says, that he knew that he carried letters, and was at the consult where they were read and answered, and when they asked him, Where? He said, At the Benedictine convent in the Savoy. And names in particular, a letter to sir Francis Radcliff, and that there was a discourse concerning the plot, in his hearing.

They say for themselves, they cannot answer any more than by circumstances, it is a very strange thing, if Dr. Oates knew this of us, why did not he take us before? And says sir George Wakeman, Why did not he accuse me of this letter that he talks of, before the king and council? He makes an answer (which to me indeed is a very faint one) at if he were so weak and tired, that he could not speak any word farther. When the council asked sir George Wakeman what he had to say for himself, and he behaved himself ruggedly, they call for Oates again, What, said they, 'do you know any thing of your own knowledge?' No, said he, God forbid; I know nothing more; as sir Philip Lloyd says, and as the matter speaks: For if he had charged him that he had seen that letter, the lords would infallibly have committed him. If he had but said, I saw a letter with his name to it, which by the character I believe was his, because I saw his writing elsewhere: And it is wonderful to me; I do not know, if a man be never so faint, could not he say, I saw a letter under his hand, as well as, I knew nothing more of him? There are as few words in one, as in the other. If he had said, I beg your lordships or his majesty's pardon, I am so weak I cannot recollect myself, it had been something; but to make a great protestation that he knew nothing of him. This is that that is said by sir Philip Lloyd, on his behalf.

These other gentlemen say, that Oates did not know them, and the woman does say, that she did tell them, when they came to search, that Corker and Marshal were there, and Dr. Oates and they said, they had nothing to do with any but Pickering. They make answer now and say, that they had no commission to take any but him. But it is strange indeed, if they were there, and they did see them, that they did not apprehend them. For what defence they make about what talk was had at the Gate-house, it is all contradicted by sir William Waller: And indeed, if it were possi-

ble, they have almost undone themselves in their own defences, by making weak observations, and insisting upon trivial things; improper for the Court to hear, and impertinent for them to urge. But I deal faithfully with you, I will discharge my own conscience to you. It lies upon the oaths of these two men. Though there was a Plot in general proved, yet that does not affect these men in particular, but was only used to answer that objection; that it should not be believed upon positive swearing, hand over head, without something else. Here was something else, the Plot in general, and their being priests, is another circumstance to me, who are mad to bring in popery, and would do any thing to get their tyranny again established amongst us. And there is more than probable evidence of that I assure you.

Sir Tho. Doleman did indeed say Mr. Oates was very weak, so that he was in great confusion, and scarce able to stand; weigh it with you how it will, but to me it is no answer. I tell you plainly, I think a man could not be so weak but he could have said, he saw a letter under his hand. It was as short as he could make an answer, and it is strange that he should go and make protestation that he knew nothing. And so I pray you weigh it well. Let us not be so amazed and frightened with the noise of Plots, as to take away any man's life without any reasonable evidence. If you are satisfied with the oaths of these two men; so, I have observed to you what objections they make for themselves, and those objections are material: What sir George Wakeman says about his not accusing him before the council, and what these men say that he did not apprehend them. And it is very strange, they should have so little knowledge, and so little acquaintance with Oates and Bedlow, and so great a matter as they speak should be true. And it is well enough observed, that he was a begging there; it is very much that such a man should know of such a great design on foot, and they should use him in that manner. These are the things that I remember, worthy of your consideration. These men's bloods are at stake, and your souls and mine, and our oaths and consciences are at stake; and therefore never care what the world says, follow your consciences; if you are satisfied these men swear true, you will do well to find them guilty, and they deserve to die for it: If you are unsatisfied, upon these things put together, and they do weigh with you, that they have not said true, you will do well to acquit them.

Bedlow. My lord, my evidence is not right summed up.

L. C. J. I know not by what authority this man speaks.

Cl. of Cr. Make way for the jury there; who keeps the jury?

[Then an officer was sworn to keep the jury: The judges went off the bench, leaving Mr. Recorder and some justices to take the Verdict. And after about an hour's space the jury re-

turned, and the foreman coming up to the table, spoke thus to Mr. Recorder.]

Foreman. Sir, the gentlemen of the jury desire to know, whether they may not find the prisoners guilty of misprision of treason?

Recorder. No, you must either convict them of high-treason, or acquit them.

Foreman. Then take a Verdict.

Cl. of Cr. Gentlemen, answer to your names, Ralph Hawirey.

Hawirey. Here, &c.

Cl. of Cr. Gentlemen, are you all agreed of your Verdict?

Omnes. Yes.

Cl. of Cr. Who shall say for you?

Omnes. Our foreman.

Cl. of Cr. Sir George Wakeman, hold up thy hand. [Which he did.] Look upon the prisoner. How say you, is he guilty of the high-treason whereof he stands indicted, or Not Guilty?

Foreman. Not Guilty.

Capt. Richardson. Down on your knees.

Sir G. Wakeman. God bless the king and the honourable bench.

And in like manner were the other three acquitted. After the Verdict was recorded, the Court adjourned 'till 5 in the afternoon.

Some Observations upon the late Trials of Sir GEORGE WAKEMAN, CORKER, and MARSHAL, &c. By Tom Ticklefoot, the Tabourer, late Clerk to Justice Clodpate.

THE Reader may perhaps wonder why I should wave the employment of clerking to a Westminster Justice, who seldom are of the wisest, and turn minstrel; but upon serious thought she will respect me for my integrity, and give greater faith to what I shall offer now; for to say the truth, the methods of my former life were so villainous, in order to my calling, as I could no longer dispense with them; for I was forced to inform my master's worship of all the bawdy-houses within his district, which by that means were all set under contribution, and out of their compositions for enormities I had poundage, which was all my subsistence, for his worship engrossed all the warrant-revenue to himself; so I grew of late melancholy, through the failing of trade, the private misses driving all before them, that public sinners are now of all people the most miserable; so I retired some time before my master's death: in which retirement, as barbers have nothing to do, learn to play on the cittern, I got a stroke upon the pipe and tabor, by which means I now live very comfortably; yet willing to give the world a taste of my old office of clerkship, I have made these following observations:

The first part of the trial was spent in the examination of Dugdale, Praunce, and Jennison, to prove the Plot, so to obviate the common objection that it was unreasonable to believe two men against so many, upon bare testimony, without other circumstantial evidence, that was done with such notoriety, as satisfied all unprejudiced persons: among other things it was proved, by an undeniable witness, Mr. Jennison, corroborated with notable circumstances, that Ireland died with a lye in his mouth; as by consequence sir John Southcot and his lady live with the same veracity, which my old master would have made another kind of use on than was made: then were some fine harangues about it, to answer some objections; yet nothing was reduced to practice in the case during that part of the trial, in which the prisoners were but remotely concerned. It may

be observed, that Corker fell into great undecencies of passion against the witness Dugdale; an argument of guilt, my old master would have said; yet no inferences nor reproofs upon it. Now I have given a short, yet true account of what was but preliminary to Wakeman's, and their trials, I shall go on. Doctor Oates proved that Wakeman refused 10,000*l.* as too little for poisoning the king; which he termed so great a work, and afterwards did undertake it for five thousand more, as it was written down in the entry-book, kept sometimes at Wild-house, sometimes at Langhorn's chamber. And further, as appeared by the said entry-book, there were 5,000*l.* paid in part, and a receipt subscribed George Wakeman, which by a comparison of hands, was sworn to be sir George's hand; which sir George shifted off by the help of an apothecary, as he thought well enough; yet granting the apothecary to say true, which is questionable too, for they are often slippery chapmen, especially considering former relations, and future hopes; and Oates to swear true, which no wise man will dispute, there might be two letters, which sir George would slur off, from the improbability of writing two letters to one thing, and gravely bids the jury take notice that he writ but one letter; he might with the same modesty have advised them not to believe a word against him; yet little notice taken.

The improbability of writing two letters to one thing, seemed to weigh something with the Lord Chief Justice; though not so with Justice Pemberton, who said, It might be so, to serve a turn very well.

It was proved likewise by Dr. Oates, that Wakeman had a commission to be physician-general to the new army; which my Lord Chief Justice had like to have forgotten.

Amongst other matters, Bedlow deposed, That sir George Wakeman came into Harcourt's chamber in a chafe, and told him, he knew not whether he should go on or no. Harcourt went to his cabinet, and took out a bill, and asked

sir George if he was ready? Sir George said he was, and had been long since, but they were not punctual with him; but what have you there? a bill for 2,000*l.* at your service, replies Harcourt. Which bill sir George accepted, and afterwards told Bedlow, that the goldsmith had allowed of it, and would pay him in the afternoon. When Wakeman objected, it was not likely he should discover so great a secret upon so small an acquaintance; Bedlow replied, he would have a hundred times more, if Harcourt had but told him he was his confidant, as he had done then. Wakeman rambled out into a passion, and swore that he never saw him in all his life: yet Bedlow made it out by circumstances, that he had taken physic of him at the bath; and that acquaintance he did not deny, but called him rogue, &c. Before the prisoner called his witnesses, it may be observed, that the Lord Chief Justice said, that Bedlow, the second witness, said no material thing against Wakeman, but only some circumstantial about a 2,000*l.* bill; but had not said for what, only some things about the queen, his lady and mistress.

Sir Robert Sawyer replied, under favour, and began to sum up Bedlow's evidence; so the Lord Chief Justice seemed not pleased, and answered, What is all this? Call Mr. Bedlow again. To whom he made a godly speech about innocent blood, and bade him give his evidence anew; who gave what is above said. Sir George replied, What if the queen had given me 2,000*l.* for my service done her, is that any harm? I have deserved it, I am sure, for nine years service; yet a little before he made a protestation before God, he never saw Bedlow; a likely matter, as if an absolute stranger should come to the knowledge of such a money-circumstance, and agree in the sum too. Bedlow went on, and swore, that Harcourt said to sir George, This must be well followed, and closely observed; because much depends upon it: For if we should miss to kill him at Windsor, or you miss in your way, then we will do it at Newmarket. The Lord Chief Justice made Bedlow repeat the words again; which he did, only interposing [which we hope you will not.] The Lord Chief Justice replied very modestly, he says now quite another thing; but was contradicted by the Lord Chief Justice North, the Recorder, and sir Robert Sawyer, and submitted to it most christianly. Then Bedlow went on, and swore, that sir G. Wakeman, in his hearing, declared his consent; and that it was one entire discourse: Upon which the knight, as well he might, said to the prisoners, Then is my business done; and he had been a true prophet, if either wit or honesty had exercised a due dominion over the jury. Now if my old master Clodpate had been on the bench, he would have hung hard upon that expression, as also upon sir George's allowing of 2,000*l.* to be paid for wages; he would have swaggered it, and have said, This is not to be said to us that know the methods of the Court, never to pay so much wages at a time, they al-

ways instance such sums; you might, however, have brought some other authority besides yourself, which can deserve no credit here, when it is clear by all circumstances you invoke God to witness to a lye, about your never seeing Bedlow, within these ten minutes.

Against Corker, Oates deposed, That he saw his patent from Rome to be bishop of London; that he was privy, and did consent to Langhorn's proposal to the Benedictine monks, to advance 6,000*l.* towards carrying on his design, his consent being necessary, because he was president; and that Corker should say farther, that he carried on the design under the disguise of bestowing the queen's charity; and that he did except against Pickering, being chosen to kill the king, being that a mere layman was more proper. Mr. Marshal was charged with the same thing, and that Marshal went half with Conyers, who laid a wager that the king would eat no more Christmas pies.

Bedlow deposed further against Corker, That he had heard him discourse about raising an army, but nothing positively to the murder of the king. Bedlow accused Marshal much about that rate; but Marshal not being shy of his lip-labour, fell to impertinent questioning him about his knowing him; but was confuted (but not at all ashamed in his lies) by sir William Waller, who was sworn in the case; but Marshal, with a company of soft words, would have persuaded sir William that he forswore himself; the priest surely loved to hear himself prattle, to spend so much time in the wasting of his credit, about a thing which was not of a farthing concern, true or false: Then he asked Bedlow, whether he had ever seen him before he was taken? Who said, at the Savoy. Then with an unheard of impudence he replied, He would be content to be hanged, if Bedlow could prove that he was ever at the Savoy. Bedlow, though he had none by to prove that, as perhaps he would have been in the same case if he had been to have proved himself ever to have been in Westminster Hall, as the Lord Chief Justice intimated; yet he did it by a sufficient circumstance, when he gave sir William Waller directions where to search for the gun that was to have killed the king; which was found accordingly. This is now the substance of what the prisoners, Wakeman, Corker, and Marshal, were charged with: The other, Rumley, had but one witness against him; so went off on course. Sir George now called his witnesses; the chief was Chapman the apothecary, of which I have given a former account. Then was his man Hunt, and Elizabeth Henningham, called, who talked at the apothecary's rate; so that Oates was not at all contradicted by them, but they might both say true, and that the Chief Justice told them. Then sir Philip Lloyd was called upon by sir G. Wakeman, to adjust what Dr. Oates should say at the Council-table; who said but not upon oath, that when sir George was called in before the council, and told of his accusation, he utterly denied all, and did indeed carry him-

self, as if he were not concerned at the accusation. Then Oates was called in, to tell what he knew further; for as yet he had given but a hearsay evidence (as my old master used to term it), he replied with lift up hands, God forbid (for I must tell truth, says sir Philip Lloyd, let it be what it will) that I should say any thing against sir George Wakeman; for I know nothing more against him. Oates replied, He knew nothing at all of this. Sir George triumphed, and cried, This is a protestant witness. Now had old justice Clodpate, my old master, been upon the bench, he would have taken up the knight, and told him, he had given a very officious testimony; for he was to tell only what Oates said at that time, and not to pretend to skill in physionomy; for he was not mealy mouthed, but would upon occasion have talked his mind to knights, or any body, and would have said further, It appears to me, and may appear to any body else, that this knight has as great a kindness for sir George as for truth, and have bidden the jury observed accordingly; he would not have left there neither, for he would have said, Admit sir Philip says true, and that is as kind to him as can be, what would sir George infer, That Mr. Oates is now tied up in his evidence? By no means, for the case is no more than if a man be brought before a justice of peace for stealing a cow, and that witness makes a solemn protestation, that he knows no more against him: yet afterwards, upon his arraignment, swears to a horse too; in another bill of Indictment, the former asseveration is attested by his worship's clerk, *quare*, whether that will quit him for the horse, or ought to be so much as heard in a Court? Besides, here has been a late judged case, Whitebread and Fenwick's, the jury was withdrawn for want of full evidence, afterwards one of the short evidences came to swear home, and was admitted, the prisoners found Guilty, and executed accordingly; if that was right, as no question it was, because practised, as I have been informed, it must be much more in the right now to admit of Oates's further testimony, for the council-table is no court of Record, as this is.

Sir Thomas Doleman was called in for Oates; who said, that Oates at that time was in great disorder and confusion, and as feeble as ever he saw any body in his life, so as he believed he could not give any body a good answer; and further said, that Wakeman was called in, and gave his answer, at which the council was amazed; for he did not in his opinion deny it so positively as one that was innocent could, but shuffled matters off with expressions of the great loyalty and services to the crown of himself and family, and required reparation for injury done. It seems sir Philip and sir Thomas had different sentiments about sir George's mien. When sir Thomas Doleman had done, sir George, unbidden, fell into a repetition of what he had said at the council table in his defence; which resolved only into a telling what a good subject he had been for the king, what work his brother made at Worcester, how

his father lost 18,000*l.* estate for the king, how he was in a plot for the king, was taken at his apothecary's, some arms found in the cellar, carried to prison, and in much danger of being hanged: and how his family was mighty instrumental in the saving of the king, as colonel Gifford, his cousin Carlos; and that the Pendrels were menial servants to the family.

Then Corker was called; who began with a florid discourse reflecting upon the witnesses, that they had been men of scandalous lives, and that there was no Plot; which he flourished off as well as he could, but not to any reasonable satisfaction; then he came to trifling about going to Lambspring in Westphalia, and such other small matters; but at last he said, he was not president of the Benedictines; which was material, had it been well proved, for it obviated Mr. Oates his accusation of consenting to the 6,000*l.* as president. Then Marshal was called to say for himself; who made a great pother about a white spot under his periwig, and sir William Waller's ordering him to put it off; and many inferences he would have made; and then made a great stir about witnesses that could have come within three days, and many other things to no purpose. Then Corker called his witness, Nell Rigby, to prove that he was in the Savoy when Pickering was taken; and that Oates and Bedlow did know so much: She likewise averred, that Stapleton was president of the Benedictines, and Corker never officiated assuch; and that she saw Mr. Oates once in the house, who came a begging to Mr. Pickering for charity, and that was in the midst of the Plot, as was made out by circumstance; from whence Marshal inferred, It was not likely they should trust him with any thing of that nature, and suffer him to want. This now must be a new contrivance, for it would have been set up before in Pickering's Trial, had there been any thing of truth in it. I now wonder that none from the bench set upon that bitch-fox, to run down her testimony; for allow that to be true, the Plot is non-suit, *Semel insani vinus omnes*; my old master would have clawed the three-penny baggage, and told her her own, and likewise have broke her credit with the jury, by the circumstances, that it was never before offered; a thing that they could not be so careless in, had the thing been true. Now Mrs. Sheldon was called to prove Stapleton president of the Benedictines; who accordingly did so. Then Alice Broadhead did the same.

Then Dr. Oates was called again, but never examined; he is wise that can tell why, without somebody was afraid he should have cleared the point, as it was formerly in another case about Mr. Howard's son.

Then the court asked them, if they had done all three? Sir George Wakeman fell to a detesting, forswearing, and abominating the plot, and that he never had a farthing for any such thing; Corker much at that rate; and Marshal made an harangue, that, had it not been

for my Lord Chief Justice North, I believe would have lasted till now; it was all full of protestations of the innocence of the executed persons, which were fully answered by the Chief Justice Scroggs; who after some little trifling velitations with the priests, summed up the evidence. In the first he proved, by Mr. Jennison, as has been hinted before, that Ireland died with a lye in his mouth.

Now a man would wonder what he should urge that for, unless to infer, That if dying men in their last breath would lye, why should living persons be believed under their circumstances? Especially when a jury is free by the law to do what they will without blemish in the case.

Then the Chief Justice goes on, and sums up Oates his evidence against Wakeman; which his lordship, leaving or forgetting all the material points, makes only circumstantial: till sir Robert Sawyer put him in mind of his commission, seen by Oates, to be a physician to the new army; and then his lordship goes on, and allows that, as likewise that he refused 10,000*l.* and would have 15,000*l.* to do the work; but with an unusual sweetness leaves the truth with the jury, and then falls most religiously into a declaration against shedding innocent blood: which he did so pathetically, as no man would judge him to be the son of a father who, as moderns say, was not very scrupulous in that point.

Then he goes on to Mr. Bedlow's evidence; and though he sums it up a little short, yet he makes him a second witness against Wakeman if the jury will believe him. Now considering these [If's] were never put before, why the devil should they now, would old Clodpate have said; and so say I, Tom Tickle-foot.

And then the Chief Justice prays the bench in aid, if he had forgotten any thing material.

Then his lordship was pleased to say, the evidence against Corker was not full, so as to prove any fact, but only some words; and that he was not president of the Benedictines, his lordship affirmed from the testimony of three slingstinks, without any manner of hint to the jury that they were not upon their oaths. The charge against Marshal, his lordship said, was rather less than against Corker; and so accordingly lightened it, as became him.

Then he comes to sir Philip Lloyd's testimony, which he laid as great a stress upon as it would naturally bear; and, so as to invalidate any further testimony against sir George Wakeman, his lordship was pleased to name sir Thomas Doleman's evidence, but with so little respect, as he might have as decently let it alone; And to invalidate Oates his testimony further, he takes notice that he was begging, without intimation to the jury of any probability of the matter, which must utterly destroy Mr. Oates for the future; for nobody that believes that, can believe any thing he says of the Plot. And then, after a pious exhortation to the jury to take care of innocent blood, he concludes, telling them, that if they believe Oates and Bed-

low, they may do well to find the prisoners guilty; otherwise not.

Bedlow charged the Chief Justice, for not summing up his evidence right; who only replied, he knew not by what authority this man speaks. I shall only make this observation upon his lordship: In all former trials he went on without the least hesitation, or running the same over again, as he did not in this; especially about the concern of innocent blood: but, by all that is good, it was my old master Clodpate's disease, peace be with him! always to sham up an evidence when any body had been with him the morning before.

About an hour after the jury returned, and brought them in. Not Guilty; but, according to their abundance of want of understanding, enquired whether they might not bring them in guilty of misprision, or no? Now could such a thing come into their politic pates, had they understood what the word meant? For that implies a knowing of, but not consenting to, a treason. Now there was no manner of colour for such a thing; for the evidence was full, if they believed them, as to absolute treason; if not, why would they think of any thing but acquittal? But it may be they knew not the force of the word, which led them into that error; I am sure that is their best plea; otherwise they must yield themselves to be great betrayers of their nation, and lay under a damned suspicion of being foully practised upon; especially if that be true that runs about in coffee-houses, That a gentleman that went out amongst them had a sealed paper of fifty guineas thrust into his hand.

They say in the north, That a jury consists of eleven fools and a knave: Now those of the south, as being more refined wits, are of a nobler consistence, as having more of the knave in them; for had they had a mind to have examined matters, and not barely to have acquiesced in outward appearance, they might have considered, that Oates and Bedlow did not swear by practice, like the boys of St. Omers, from this circumstance, That Rumley had but one witness against him. Now had hanging, and not truth, been the designed matter, how easy a thing had it been for captain Bedlow to have agreed with Dr. Oates, and made up two witnesses against Rumley, is obvious to every considering capacity, and might have played such a prank formerly to have served a turn, when they were listed amongst the pope's mamalukes.

It is no small wonder, I confess to Tom Ticklefoot, that nobody from the bench nor bar hinted that circumstance; my old master Clodpate would have been hanged before he would have missed such a barn door.

I am more particular in this, to the end that circumstance of their not combining, may induce juries for the future to look upon them as men that swear only according to the dictates of truth, notwithstanding the sham tale of the doctor's begging at Pickering's.

To the foregoing Pamphlet, there was published the following Answer:

THE TICKLER TICKLED; or, the Observator upon the late Trials of Sir GEORGE WAKEMAN, &c. observed. By MARGERY MASON, Spinster. London: Printed for A. Brewster, 1679.

LET nobody wonder at this attempt, as an argument of overweening, when so many of our sex are become statists; but I being nothing concerned at other ladies actions, will only give the reader, as introductory to my observations, a short account of my own life. I was placed with a beautiful lady of great quality about court, as superintendant of her Limbeck, Preserving-pans, and Washes; by which means, I became the chief confident, as being privy to all her intrigues. My lady past off her youthful years pleasurably enough both to herself and me; for the fresh lovers that flocked daily (to whom my lady was never hard hearted) were free of their money, both to herself and servants; but when my lady became a little superannuated, and was forced to send ambassadors to her former idolaters, the case, (as to money) came to be quite altered; so we lived upon the spoil, but yet pretty even and even; but her ladyship at last came to give boots, then there was no longer abiding for me; so I thought fit to retire whilst I had some money and beauty left; so accordingly did, into Chancery-lane, turned sempstress: where

————— shop I keep for countenance
But ————— is my sustenance. Chaucer.

And now having a little knack in book learning, I diverted myself this dead vacation time with reading and comparing the late trials, with the observations of captain Ticklefoot, (for why not captain Ticklefoot as well as captain Bedlow?) They indeed are too unmanly upon the chief magistrate, for it lays matters too open; they are likewise so rude upon the ladies that came to attest the truth, as it is not at all suitable to the generosity of a chevalier, for to treat a lady of Mrs. Ellen Rigby's quality, with the name of bitch-fox, and three-penny baggage, is not at all urbane. There were some indecencies about the other gentlewomen, which are not worth our confutation; so now I will modestly, as becomes our sex, examine the whole matter.

The detractors indeed do say, which I cannot help, if I was to be hanged, that my Lord Chief-Justice's carriage did not seem even, as not at all quadrating with the former trials. The only way to judge whether the detractors be rogues or no, is to lay down matters fairly, as they were transacted in Wakeman's trial, and compare them with parallel cases in the trials of the convicted persons. But before I fall into the main business, I must have the other fling at captain Ticklefoot, who is too severe in reflecting upon a descent there; I

suppose he hath some British blood in him, and had a knight to his ancestor, or is akin to somebody that is akin to a lord, he would have had more wit else, than to have objected against any body what is not in his power to help, he might have remembered that worthy saying of Cicero, I had rather be the first than the last of my family; as likewise the brave achievements of that great man, how he ran down a plot in his consulship, backed by so many of the Patricians, and chief nobility, nay, Caesar himself was not free; it was so backed as the rebels were able, upon discovery, to dispute the matter by arms: yet that mushroom orator, that man of no images, by his own proper virtue brought it to light, and the traitors to punishment, notwithstanding that great abetting. Or, he might have remembered, had he read authors, what that great capt. Caius Marius said in his oration to the people of Rome, when he stood candidate for general in the Jugurthian wars, when his want of nobility was objected against him: 'Nobilitatem certe peperisse melius est, quam acceptam coru-
'pisse;' (for Padge hath a smack at Latin, but let them English it that will.) And I think my Lord-Chief-Justice has done his part as to every thing till of late; and whether well or no, now, is to be enquired into by circumstances. In the trials of Whitebread and his fellows, when the sixteen witnesses were brought over from St. Omers, to prove Oates in a lie about the time of the consult, his lordship, I must confess, animadverted very sarcastically upon them, by saying, their testimony was alike to be believed, though not upon oath, as if they had been sworn, because they are of a religion that can dispense with oaths, though false, for the sake of a good cause. And then reflecting upon the nature of the men, he goes on very floridly, and tells the jury, That they are proselites, and young striplings of their church, which does indeed, in one respect or other, abuse all her disciples, and keep them in a blind obedience to pursue and effect all her commands: And then going on, says of the witnesses, That they were young boys sent for hither on purpose to give this testimony; and though it be no fault in the prisoners to send for what evidence they could; but it is very doubtful and suspicious to have such green and flexible minds thus employed; and I must leave it to you; meaning the jury, to consider how far these young men, trained in such principles, may be prevailed on to speak what is not true.

And then, after his lordship had done what became him by running down the school-boy's

evidence, he makes this as a natural inference, "That they cannot want witness to prove what they please; for I believe there is none of them all will make any bones of it."

It cannot be said, I must confess, that there was any such pains taken to run down the credit of the gentlewomen that came to invalidate Oates's testimony, upon the account of their religion, or of their sex, very prevailable upon to speak what often is not true; for the first was never so much as hinted, nor so much neither as that they were not upon their oaths, which there was great care taken for in the St. Omers' boys. I must confess, my lord's treating Mr. Oates about the witness Nell Rigby, is a wonder to me; for his words are so plain, that they imply he has lied all this while, and is to be believed no more. "It is well observed," says he, "that he was a begging there;" viz. at Pickering's, formerly executed. "It is very much that such a man should know of such a design on foot, and they use him on that manner;" and concludes, "that that amongst other things was worthy consideration." My lord was pleased to gallant Mrs. Sheldon and Alice Broadhead at the same rate, by allowing their tale, though it was in the negative, that Mr. Corker did never officiate as the president of the Benedictines, which made Dr. Oates's evidence ineffectual. I must not forget, amongst all, my lord's great compliment to the city, which it may be pleased some as much as the verdict did please others; "We have a bench of aldermen," says he, "have more wit than the conclave, and a Lord Mayor that is as infallible as the Pope." Now if all these things put together deserve another name than fair practice, I, poor Madge, cannot help it.

P. S. But to come to the point; here are three men indicted for no less than high treason (for Rumley is to be omitted, the proof against him being justly allowed to be imperfect) one, for having undertaken, for a base reward of money, to have poisoned a great monarch, his lawful prince and sovereign; a king, and consequently, by virtue of his office, sacred in his person, as being elevated to the high dignity of a God upon earth by the affirmative of never-erring scripture itself: a crime so enormous, so void, to set religion aside, of those common dictates of heathenish morality, that it was never so remarkably violated till Judas and the murderers of his father taught the way: A crime to have been committed against a majesty so mild, so tender of enforcing conscience, so indulgent, that he frequently dispensed with the rigor of his own laws, to mitigate their punishment; interposing in hopes of reclaiming them, between them and the violent prosecution of an incensed parliament. And yet, for all this, mercy itself must be assassinated or poisoned. What can we think, but that men, who dare attempt such ungodly massacres upon the holy person of a God upon earth, would not stick for double the sum, to poison their Creator himself, at the instigation of the devil,

his great adversary, were it within the verge of their prostituted recipes? But happy the gentleman was under the bonds of confession. And then, "Better that all the kings of the earth should perish, than that the seat of confession should be broken;" as Binetus the Jesuit told the learned Casaubon.* Or else the assertion of that other Jesuit prevailed with him, who averred to the same Casaubon in France, "That if Christ were again upon earth, in a condition subject to death, and any one should tell him that he had a design to kill him, that he would suffer Christ to be murdered, rather than reveal the confession†." Since then the crime was so considerable, and the consequences of its being perpetrated, must have proved so fatal to the nation, it cannot well be thought that an under-sheriff alone was a fit person to be the sole judge of the probity and judgment of a jury that was to pass their verdict upon a fact of so much weight, and so dreadful to the very thoughts of his majesty's subjects in the issue of the success.

As for the other two, though their crimes were not absolutely so great, yet were they heinous enough; they were both privy to the conspiracy, allowed it, fostered and encouraged it; and were the raisers and contributors of very large sums towards the carrying it on.

As for the proof of the indictments, it was certainly as bright as summer sunshine; it is to be feared, too bright to dazzle the eyes of so many mens' understandings. Then for the defences of the prisoners, they were publicly allowed to have been very mean, and that their cause looked much better before they were heard: which the jury, had they not been adders, might have heard; for it was spoken loud enough. For what signified all their procrastinated endeavours to shelter themselves under the scandals and reproaches which they threw upon the king's evidence? A trick they had all used, though not with the same success; and that is one thing that reason professes herself to be puzzled at: For what had the king's evidence done to render them more flagitious than they were the former sessions? why to be less credited than before? they had been as deep in the Plot as themselves, it is true; but they had reclaimed themselves from their disloyalty, and by a seasonable discovery, had ruined the villainous architecture of their treachery; for which they had received the king's pardon; and so being *recti in curia*, were not to be canvassed by the foul mouths of those that laid hold of every rotten bough to save themselves. And it was a hard case that they should stand there as at a stake, rather to be baited than examined: but suppose them guilty of the luxuriant misdemeanours of the age, what law is there in any nation that we know of, that excludes an adulterer, an atheist, a fornicator, or a drunkard, a proud or a covet-

* Hennam Conringius, De Rebus Publicis totius Orbis.

† Casaubon in Respub. ad C. Terren.

ous man from giving his testimony, either in criminal or civil causes? A man may love wine or a mistress, be vain in his discourse, cherish his avarice or his ambition, yet loath conspiracy, disloyalty to his prince and treachery to his country. Vicious men are seldom guilty of accumulated vice; but setting aside the particular inclination of nature, are in other things morally just and honest, religiously giving to Cæsar that which is Cæsar's, and abominating the foot-steps of seemingly pious and sober villainy.

To reproach their need and exigency, was as little to their advantage: For who, can any man think, would do the drudgery of a Plot, carry letters and portmanteaus from place to place, run from post to pillar, and be at the beck of inferior superiority, but they who had not their fat benevolences and rewards to support them? Surely they would not have had the lords in the Tower have run upon their errands. Neither could there be a greater symptom of urging necessity, than for a man to accept of money to murder his prince. Why did not they, that boast so much sobriety and sanctity, make the discovery themselves, and put by these flagitious witnesses from having the hand? Very fine indeed!

“Clodius accusat Mœchos——”

As if any but they who had been as flagitious as themselves, could have ever discovered their designs! would they have had the Protestants divined them? would they have had an angel from heaven have come on purpose to disclose them? or else would they have had the evil spirit of Brutus to have risen a third time? no certainly, they would not have had it revealed at all: but because these persons did reveal it, therefore they must be flagitious. Fulvia and Sempronia, that revealed the conspiracy of Cataline, were both courtesans, and yet they that read the story, will not find, that either Cicero the consul, or the Roman senate gave the less credit to them for that. The Allobroges at that time were suppliants and petitioners, and yet their information past. Thus far upon the supposition that they had been men of a loose life or necessitous; but here was no such thing: there was not any one of their accusations or reflections that they could prove against them. So that reason, in the second place, admires why there was so much freedom allowed their lavish tongues; or that men should be so much moped in their senses, to be carried away with such a slight stream of false and proofless suggestions.

Such answers as these were not so remote from the quick apprehensions of men of business, but that they might easily have been produced to defend the reputation of the king's evidence, from the batteries of men in despair, that verily believed their business had been done, and therefore cared not what they said. Certainly some gentle constellation reigned that day, more tender-hearted than moist St. Swithin, or the weeping Pleiades; or else

mercy and compassion themselves had some particular pique against truth, and were resolved to put an affront upon her. But alas! Clemency had no hand in it.—The witnesses were hirelings and impostors.—But now, Lassa Crudelitas began to grow penitent, and to cry Peccavi for her former severity, which will certainly be the construction of them that hereafter shall go to play the Causinus's with our story.

The next plea of the prisoners was, That the evidence were strangers to them; and that they had started a new charge; of which they declared themselves utterly ignorant before the council. A very strange thing, that the question should be all of a sudden, whether familiarity should be necessary for the conviction of such secret and grand delinquents? This was rather an argument of the truth. For what motive can any rational man propose, that should induce persons unacquainted with the prisoners, and consequently, such as could not be thought to have received any personal injuries from them, out of a prepense and studied malice to seek their blood? Hopes of reward.—But that is a scandal that blasphemes the integrity of that authority which gave the testimonies countenance to prosecute: that impeaches both the parliament and council, as if they were the rewarders of people to take away the lives of the innocent. They saw that apparently there was a plot, and that there was a design to take away the king's life, and had as much reason to believe the information of clandestine poisoning, as the private pistolling. But these witnesses did know the prisoners, and had seen them in the company of the conspirators, had heard them discourse together of the design itself, had seen the acquittance for receipt of the money, and that by all the circumstances of the discourse, the money could be paid upon no other account, than to poison the king, which was the thing at that time intended, and the thing then only spoken of. And this was certainly and most unanswerably a knowledge sufficient of the persons, without any necessity that the king's evidence should be any farther, or more intimately acquainted with him. If a man sees a thief break a house, it is not to be conceived, that the witness should be constrained to go and drink a pot of ale, and enter into a strict league of friendship with the felon, before he can accuse him of the felony.

As to the other objection, That the charge of the king's evidence was not so ample before the lords of the council, as the bar of Oyer and Terminer; the answer of the king's evidence was very fair and probable; and the reasons of his omission, were credibly balanced in his behalf, as the averment against him. He was sworn to be in a most weak and feeble condition, being tired by public and eminent service: And how far the weaknesses of the body may disorder the faculties of the mind, is not unknown to vulgar experience.

It was enough he charged him at the bar, charged him home, and backed his charge with

a reserve of circumstances sufficiently convincing; and therefore there was no necessity to aggravate and prosecute such a prime objection to such an egregious height, as if it had been done on purpose to throw disgrace and shame upon desert, to make way for unseasonable and untoward compassion.

This is not the judgment of a few, but the general murmur and complaint, the general voice of the people; for they are making their queries in every coffee-house, and cry, Why should one man be hanged for paying 5,000*l.* upon a treasonable account, and another man be acquitted for receiving the same 5,000*l.* upon account of the same treason? Why the same witnesses should condemn the one for the payment, and be rejected.

As to the receipt, seeing they swear as positively to the one as the other, why the memory of man should fail at one particular juncture so remarkably, as to leave out or forget the most material points of the king's evidence? Why the bare allegations for the criminals should be so lugged and caressed, and an oath of spotless credit for the king, looked upon as a mere intruder, and passed by with as little respect? What necessity or provocation was given by the king's evidence to be publicly upbraided with beggary, upon the slighter tittle tattle of an idle thing in petticoats; How there came to be so much courtship used toward Corker's two

misses, that their tale should be so courteously allowed that had neither head nor tail? Why matters should be so ill managed, that the king's witnesses should have occasion to complain, that his evidence was not rightly summed up? And wherefore for such a requisite piece of unmannerliness, he should be so severely checked and frowned upon.

Lastly, What was the meaning of so many foreign visits, which, upon what account soever they were, were then neither prudently nor warily admitted at that time?

Now though the people ask these questions, yet, they say, that many of them can answer themselves; or at least, that there are certain Davids among them, that can unfold all these mysteries: but they are so surly, that they cry, They will take their own time; and so they must, if there be no other remedy.

But what have these acquitted offenders got by this excuse? It is true, they are acquitted at the bar of common trial, and so have saved their lives; but they are still as guilty as ever, before the tribunal of reason: so that, although they are let loose again into the world, yet it is with that indelible mark of Cain, which at length they will carry to their graves, after they have only led a miserable life, rejected from the society of all good men, that are lovers of their prince and country.

The Lord Chief-Justice SCROGGS's SPEECH in the King's-Bench, the first Day of this present Michaelmas-Term, 1679, occasioned by many libellous Pamphlets which are published against Law, to the Scandal of the Government, and Public Justice. Together with what was declared at the same time on the same Occasion, in open Court, by Mr. Justice JONES, and Mr. Justice DOLBEN.

I HAVE bound over this man, Richard Radley, to his good behaviour, and to appear here this day, for saying false and scandalous words of me, which are sworn to by two several affidavits; viz.

“ William Lewis maketh oath, That on the 7th day of August, 1679, there being a difference between Robert Raylett and Richard Radley, we heard the said Richard Radley say to him the said Raylett, If you think to have the money you have overthrown me in, go to Weal-hall to my lord Scroggs; for he has received money enough of Dr. Wake-man for his acquittal. “ WM. LEWIS.”

Jurat. 4to die Septem.

1679, coram me,

WM. SCROGGS.

“ Robert Raylett maketh oath, That there was a Trial at the last Essex Assizes between him and one Richard Radley, where he recovered 38*l.*; and he happening to be at work

on the 7th day of August, 1679, over-against the house of the said Richard Radley, the said Richard Radley told him, If you expect the money you have overthrown me in, you may go to Weal-hall; for there is money enough come in now. “ ROB. RAYLETT.”

Jurat. 4to die Septem.

1679, coram me,

WM. SCROGGS.

First, I would have all men know, that I am not so revengeful in my nature, nor so nettled with this aspersion, but that I could have passed by this and more; but that the many scandalous libels that are abroad, and which reflect upon public justice, as well as upon my private self, make it the duty of my place to defend one, and the duty I owe to my reputation to vindicate the other.

And having this opportunity, I think this the properest place for both. If once our courts of justice come to be awed or swayed by vulgar

noise, and if judges and juries should manage themselves so as would best comply with the humour of times, it is falsely said, that men are tried for their lives or fortunes; they live by chance, and enjoy what they have as the wind blows, and with the same certainty: the giddy multitude have constancy, who condemn or acquit always before the trial, and without proof.

Such a base, fearful compliance made Felix, willing to please the people, leave Paul bound; who was apt to tremble, but not to follow his conscience. The people ought to be pleased with public justice, and not justice seek to please the people. Justice should flow like a mighty stream; and if the rabble, like an unruly wind, blow against it, it may make it rough, but the stream will keep its course. Neither, for my part, do I think we live in so corrupted an age, that no man can with safety be just and follow his conscience: if it be otherwise, we must hazard our safety to preserve our integrity.

And to speak more particularly as to sir George Wakeman's Trial, which I am neither afraid nor ashamed to mention, I know that all honest and understanding men in the kingdom (speaking generally) are thoroughly satisfied with the impartial proceedings of that trial, taking it as it is printed; which was done without the perusal of one line by me, or any friend of mine. Though, by the way, I wonder by what authority that arbitrary power was assumed, to forbid any friend of mine the seeing of it, before it was put out. However, as it is, I will appeal to all sober and understanding men, and to the long robe more especially, who are the best and properest judges in such cases, as to the fairness and equality of that trial.

For those hireling scribblers that traduce it, who write to eat, and lie for bread, I intend to meet with them another way, for they are only safe whilst they can be secret; but so are vermin, so long only as they can hide themselves. And let their brokers, those printers and booksellers by whom they vend their false and braded ware, look to it; some will be found, and they shall know that the law wants not power to punish a libellous and licentious press, nor I a resolution to execute it.

And this is all the answer is fit to be given (besides a whip) to those hackney-writers, and dull observators, that go as they are hired or spurred, and perform as they are fed, who never were taught.

If there be any sober and good men that are misled by false reports, or by subtilty deceived into any misapprehensions concerning that trial, or myself; I should account it the highest pride, and the most scornful thing in the world, if I did not endeavour to undeceive them.

To such men therefore I do solemnly declare here, in the seat of justice, where I would no more lie or equivocate than I would to God at the Holy Altar. I followed my conscience, according to the best of my understanding, in

all that trial, without fear, favour, or reward, without the gift of one shilling, or the value of it directly or indirectly, and without any promise or expectation whatsoever.

This I say to honest men, that know me not, if any that do know me needed this, they should not have had it, for they use me ill; he that knows me and doubts, so long thinks it an even wager, whether I am the greatest villain in the world or not; one that would sell the life of the king, my religion, and country, to papists for money: and he that says great places have great temptations, has a little, if not a false heart himself; for no temptation is big enough for a sin of this magnitude.

I would not have the papists now make any false conclusions from what I say, That because I reprove the insolence of some men's tongues and pens, concerning this trial, they should thence infer they have not had, or at least cannot expect fair play, because some foolish men cry out of their acquittal, and think there is no justice where there is no execution. They have had fair trials, and some that have suffered have had the ingenuity to confess it; and they shall still be tried according to the evidence, and the probability and credibility it carries with it.— But this I must say, he that thinks there is no Plot, is blind with prejudice, or wilfully shuts his eyes. The priests and Jesuits had a design to root out the Protestant religion, and bring in popery, and that is directly to overthrow the government; and to effect this, that they would kill the king. Were there no more, their doctrine and practices go very far to prove it; and he that says the contrary is as much out, as where in a printed pamphlet he too confidently asserts, that in all their papers that were searched, there was not one ill letter found, or any thing that was suspicious. Coleman's letters, and the letter found amongst Harcourt's papers, will never be answered; not by saying, that a meeting so exactly appointed, with all cautions imaginable (as not to appear too much about the town, for fear of discovering the design, which in its own nature requires secrecy), that this was only a meeting to choose an officer.— And yet to affirm, that this is not so much as suspicious at least, is a confidence, that the ingenuity of a jesuit only will undertake to own.

However, in the mean time, the extravagant boldness of mens pens and tongues is not to be endured, but shall be severely punished: for if once causes come to be tried with complacency to popular opinions, and shall be insolently censured if they go otherwise, all public causes shall receive the doom as the multitude happen to be possessed; and at length every cause shall become public, if they will but espouse it; at every sessions the judges shall be arraigned, the jury condemned, and the verdicts over-awed to comply with popular noise, and undecent shouts.

There are a sort of men, I doubt, that too much approve and countenance such vulgar ways, and count it art and stratagem, that embrace all sorts of informations, true or false,

likely or impossible, nay, though never so silly and ridiculous, they refuse none: so shall all addresses be made to them and they be looked on as the only patrons of religion and government, though they should have but little of the one, and would maintain the other only so far as their own share in it comes to.

These, Sir Politics, (if such there are) deceive themselves as much as they do others, and are not what they imagine themselves to be, with understanding and honest men; no not with those they think they gull neither, for they use them to serve their purposes as they think they serve others, and if ever time shall serve it will prove so.

Let us pursue the discovery of the Plot, in God's name, and not baulk any thing, where there is danger of suspicion upon reasonable grounds; but not so over-do it, as to shew our zeal: we will not pretend to find what is not, nor stretch one thing beyond what it will bear, to reach another: nor count him a turn-coat, and not to be trusted, that will not betray his conscience and understanding, that will not countenance unreasonable boldness, nor believe incredible things, lest we fall into what we justly condemn in the Papists, cruelty, and vain credulity: such courses cannot be the result of honest intentions, but shrewdly to be suspected rather a disguise, in pursuing one villainy to commit another. For my own part, without any other meaning or reservation whatsoever, I freely and heartily declare, I will never be a Papist nor a rebel; but will, to my power, suppress Popery as an open enemy, and faction as a secret one.

No act of oblivion ought to make us to forget by what ways, our late troubles began, when the apprentices and porters mutinied for justice, in their own sense. And though I am morally certain, that no such effect will follow as did then, yet the like insolence ought not to be suffered for the example past and to come.

The city of London, I mean the lord mayor and aldermen, and generally all men of value and worth there, I think in my conscience, are at this day as loyal and religiously disposed to defend the king and the government, and maintain the true Protestant religion to their utmost as any former age whatsoever can shew; and I know the king thinks so too, and is therefore really and heartily as kind to them. And therefore, though our jealousies may be many our fears need not be so: for whosoever they are that design disturbances, and public dissensions, for private ends, will find they are rather troublesome than dangerous: and the greatest mischief they will be able to effect, will be upon themselves. In short, it is the proper business of this court and our duty that sit judges here, to take care to prevent and punish the mischiefs of the press.

For if men can, with any safety, write and

print whatever they please, the Papists will be sure to put in for their share too: So that what between them, and the factious, and the mercenaries that write for him that hires, and for what they are hired, we shall be infected with the French disease in government, and be overrun with lies and libels; which agrees neither with Englishmen's honesty, nor courage, who were wont to scorn to say what they durst not own.

Mr. Justice JONES.

We have a particular case here before us, in a matter of scandal against a great judge, the greatest judge in the kingdom, in criminal causes; and it is a great and an high charge upon him. And certainly there was never any age, I think, more licentious than this, in aspersing governors, scattering of libels and scandalous speeches against those that are in authority; and, without all doubt, it doth become this Court to shew their zeal in suppressing it.

I am old enough to remember (and, perhaps, feel the smart of it yet) the beginning of the late rebellion (for a rebellion it was, and deserves no other name.) I know it had the forerunner of such libels, and scandals against the government, as this is; and it followed almost to the subversion of the happiness of the kingdom. As for the trial hinted at in this affidavit, I was not present at it myself, I was detained by my usual infirmity, so that I could not attend that service; nor indeed have I read the relation of it in print, so considerably as to give a judgment upon it: But I am very confident, (upon my knowledge of the integrity of my lord, and the rest of my lords the judges that were there, for there were all the chief judges, and almost all my brothers) that that trial was managed with exact justice, and perfect integrity, by them.

And therefore I do think it very fit, that this person be proceeded against by an information, that he may be made a public example to all such as shall presume to scandalize the government, and the governors, with any false aspersions or accusations.

Mr. Justice DOUBEN.

I am of that mind, truly; and am very glad we have lit upon one of the divulgers of these scandals. I was present at that trial, and, for my part, I think the scandal to my lord chief justice was a scandal to us all that were there; for if he had misbehaved himself in such a manner as some have reported, we had been strange people to sit still and say nothing, or not interpose to rectify wherein he did amiss: And therefore I desire this man may be proceeded against, for an example to others.

May 29, 1680, this Richard Radley was convicted of speaking scandalous words against the lord chief justice Scroggs, and fined 200*l*.

254. The Trial of CHARLES KERNE, at Hereford Assizes, for High Treason, being a Romish Priest :* 31 CHARLES II. A. D. 1679.

ON Monday the 4th day of August, Charles Kerne was brought to the bar, and being arraigned, he pleaded Not Guilty to the Indictment: Then the Court (after the usual formalities performed) proceeded to the trial as followeth.

Cl. of Arr. Gentlemen of the jury, Look upon the prisoner, and hearken to his cause. You shall understand that he stands indicted by the name of Charles Kerne, late of the parish of Weobly in the county of Hereford, gent. For that he being born within the kingdom of England, the 29th day of April, in the 31st year of the reign of our sovereign lord king Charles the 2nd, by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, &c. Then being a seminary priest, made, professed, and ordained by the authority and jurisdiction challenged, pretended, and derived from the see of Rome, the said 29th day of April, in the year aforesaid, within this kingdom of England (viz.) at Weobly aforesaid, in the county aforesaid, traitorously did come, was, and did remain, against the form of the statute in that case made and provided; and against the peace of our sovereign lord the king, his crown and dignity.

Upon this Indictment he hath been arraigned, and thereunto pleaded Not Guilty; and for his trial hath put himself upon God and his country, which country you are. Your charge is to enquire whether he be guilty of the High-Treason whereof he stands indicted, or Not Guilty: If you find him Guilty, you are to enquire what lands, goods or tenements he had at the time of the treason committed, or at any time since; if you find him Not Guilty, you are to enquire whether he did flee for the same: If you find he did flee for the same, you are to enquire what lands, tenements or goods he had at the time of such flight, or at any time since; if you find him Not Guilty, nor that he did flee for the same, you are to say so, and no more; and hear your evidence.

Cl. of Arr. Call Edward Biddolph. [Who was sworn.]

L. C. J. (Sir Wm. Scroggs) Give the jury pen, ink, and paper.

L. C. J. Biddolph, do you know Mr. Kerne?

Biddolph. I do not know him now: I did know such a man about 6 years ago; I have seen him once or twice at Mr. Somerset's at Bollingham, about 6 years ago.

L. C. J. How long is it ago since you saw him last?

* See the Case of David Lewis, *supra*, p. 250, and the Cases of Brommich, of Atkins, and of Johnson, in this same year 1679; and of Anderson alias Munson and others, in the following year, *infra*. The Stat. 27 Eliz. ch. 2, is set forth in Brommich's Case.

Biddolph. About a year.

L. C. J. Had you any discourse with him?

Biddolph. No, I never had any.

L. C. J. Look on the prisoner, can you say that is the man?

Biddolph. No, my lord, I cannot.

L. C. J. Can you say you ever saw or knew him?

Biddolph. I cannot.

L. C. J. Set him down. Call another witness.

Cl. of Arr. Swear Margaret Edwards. [Which was done.]

L. C. J. Do you know Mr. Kerne?

Edwards. Yes, my lord, I do.

L. C. J. How long have you known him?

Edwards. Five or six years.

L. C. J. Where did you know him?

Edwards. At Sarnsfield, at Mrs. Monington's.

L. C. J. Were you a servant there?

Edwards. No, I went thither about business.

L. C. J. Where did you first see him?

Edwards. At Mr. Wigmore's of Lucton.

L. C. J. Had you any discourse with him there?

Edwards. No.

L. C. J. How came you to see him at Mrs. Monington's?

Edwards. My lord, one James Harris's wife being very sick, I was desired by him to go to Mrs. Anne Monington to seek some remedy for her: He desired me the rather, for that she being a papist, and I of the same religion, he believed for that reason she would be the more kind to her.

L. C. J. Were you a papist then?

Edwards. Yes, my lord.

L. C. J. Well, what said Mrs. Monington to you?

Edwards. My lord, she told me she was glad that they had sent me, for that she did not care to discourse the distempers of a woman to a man.

L. C. J. Well, go on.

Edwards. My lord, after she had discoursed to me concerning the sick woman, she desired me to go with her, which I did; and she brought me into the chapel, where I saw Mr. Kerne in his robes.

L. C. J. Were there any more in the room besides him?

Edwards. Yes, my lord, 4 or 5: He was in his robes and surplice, and was at the altar, and gave the Sacrament to the rest, but I did not receive it.

L. C. J. What did you see him do?

Edwards. I saw him give the Sacrament.

L. C. J. What did he say?

Edwards. He said Corpus Christi, or some such words.

L. C. J. Did you see him deliver the wafers?

Edwards. Yes, my lord.

L. C. J. To how many?

Edwards. To four.

L. C. J. You swear positively to four: did they confess to him?

Edwards. Yes, I believe they did.

L. C. J. Did you ever see him since?

Edwards. No, my lord, I never saw him between that and this.

L. C. J. Did you ever receive the Sacrament before, and of whom?

Edwards. Yes, I received several times: the first time was of Mr. Duffres, next of Mr. Kemble, then of Mr. Rowenhill, Mr. Standish, Mr. Morgan, Mr. Trindal; I have received from Mr. Draycot at Mr. Berrington's; I have received at Mr. Blount's; but the last time was from Mr. Jennings at Mr. Wigmore's house.

Pris. My lord, I desire she may be asked whether she came to Mrs. Monington's of her own accord, or was sent for physic?

Edwards. I was sent.

Pris. Did the man send you, or his wife?

Edwards. The man.

Pris. Have a care what you say, Harris's wife is here to trepan you.

L. C. J. Give good words; you begin to triumph too soon. Woman, was it Harris or his wife sent you?

Edwards. It was Harris himself that desired me to go, because I might have more favour, being a papist.

Pris. Where did that Harris live?

Edwards. At Lempster.

Pris. I am satisfied, it was a mistake, I thought it had been Harris of Lowton she had meant.

L. C. J. Will you ask her any thing else?

Pris. I desire to know the time when she saw me at Mrs. Monington's?

Edwards. It was in last May was twelve-month, the 29th day, to the best of my memory.

L. C. J. Do you take it to be certain, or do you believe it only that it was that day?

Edwards. My lord, I am certain it was that very day; for the woman died that day, and that day is writ on the grave-stone.

Pris. I desire to know of her whether she was ever asked upon her oath, whether she was ever at Mrs. Monington's since that time?

Edwards. I was not there since, nor ever asked the question, to the best of my knowledge.

L. C. J. What a question is that?

Pris. It is very remarkable, for she was asked by a juryman last assizes, it was not upon the trial, but before the grand jury, and she denied then that she was ever at Mrs. Monington's in her life.

Edwards. I have been there above 20 times.

Pris. Call Roger Hyet.

L. C. J. By and by your defence will be proper, in the mean time, what will you ask her more?

Pris. I desire to ask her what discourse she had with Mary Jones, the other witness, for

she has been instructing her what to say; and that they may be examined asunder. [Which was granted.]

L. C. J. What discourse had you with the other woman?

Edwards. My lord, she told me that she had never in all her life been before a judge or justice of peace; and that she was afraid of coming before one, for she did not know how to behave herself.

L. C. J. Did you tell her what she should say?

Edwards. No, my lord.

L. C. J. What did you say to her?

Edwards. I told her, that she would hear her name called, and then she must answer: and I bid her have a care that she spoke what she knew, and no more or less than the truth.

L. C. J. Did she tell you what she could say?

Edwards. She did.

L. C. J. What?

Edwards. That she lived at Mr. Somerset's, where Mr. Kerne usually was, and that several people used to come thither, and go up stairs into the chamber; and she went once to hearken, and she heard Mr. Kerne say something in Latin, which she said was mass.

Pris. Here is a material question to ask this witness. I desire to know where this woman saw me first?

Edwards. At Mr. Wigmore's of Lucton, as they told me it was him, for I did not know his name.

Pris. I would know if the man she saw at Mrs. Monington's, was the same person she saw at Lucton?

Edwards. To the best of my knowledge it was.

Pris. I never was at Lucton in all my life.

L. C. J. Call the other woman: you shall now see how these women agree.

Cl. of Arr. Call Mary Jones. Crier, swear her. [Which was done.]

Pris. I desire they may be examined apart.

L. C. J. Let the other woman go out.

L. C. J. When was the first time you saw Margaret Edwards?

Jones. Yesterday, and again to-day.

L. C. J. Did she tell you and instruct you what you should say against the prisoner?

Jones. No, my lord.

L. C. J. Did you tell her what you could say against him?

Jones. No.

L. C. J. Did not you tell her that you lived at Mr. Somerset's, and that several people used to come thither and go up stairs into the chamber, and that once you went up to hearken, and heard Mr. Kerne say mass?

Jones. She did say so to me, but I did not answer her any thing.

L. C. J. Did she ask where you saw Mr. Kerne?—*Jones.* Yes.

L. C. J. Where, at Bollingham?

Jones. I did tell her that I saw him at Bollingham, and that I heard him say somewhat aloud, I think it was Latin.

L. C. J. How you answer : I asked you but just now, whether you told her that you saw Mr. Kerne at Mr. Somerset's house, and that you went up to hearken, and heard him say somewhat in Latin ? And you then said you did not, and now you say you did.

Jones. She spoke to me first about it, and I did but answer.

L. C. J. What, did she ask you what you could say against Mr. Kerne ?—*Jones.* Yes.

L. C. J. And what did you tell her you could say ?

Jones. I told her, that one Sunday morning several people came to Bollingham, out of the town and out of the country, and went up after him, and he said somewhat aloud that I did not understand.

L. C. J. Did you not tell Margaret Edwards that you heard him say mass ?

Jones. No, my lord.

L. C. J. Call Margaret Edwards again. Margaret Edwards, Did Mary Jones tell you that she heard Mr. Kerne say Mass ?

Edwards. Yes, my lord.

L. C. J. Now, Mary Jones, what say you ? Did not you tell her that you heard the prisoner say mass ?

Jones. No, I am sure I did not : for I never heard the word before, nor do not know what it means.

L. C. J. The one witness says she did not name mass, for she did not understand what it was ; the other says she did ; so they contradict one another in that.

L. C. J. Mary Jones, when did you see Mr. Kerne ?

Jones. Seven or eight years ago.

L. C. J. Where ?

Jones. At Mr. Somerset's at Bollingham, he lived there half a year.

L. C. J. What did you see him do ?

Jones. One Sunday morning I was busy a washing the rooms, and I saw several people follow him into the chamber.

L. C. J. Did you see him do any thing ?

Jones. No, I heard him say somewhat aloud which I did not understand.

L. C. J. How near were you to him ?

Jones. There was only a wall between.

L. C. J. Did you ever see him give a wafer, marry, or christen ?

Jones. No, my lord : there was a child christened in the house.

L. C. J. Who christened it ?

Jones. I cannot tell : there was no one there but my master and mistress, Mr. Lachet and his wife, and Mr. Kerne : I was in the next room, and I heard words spoken by the voice of Mr. Kerne.

L. C. J. What can you say more ?

Jones. I washed a surplice.

L. C. J. Whose was it, the prisoner's ?

Jones. I cannot tell, because I did not see it on his back.

Pris. How could you know a voice ?

Jones. Very easily, there was but a wall between.

Pris. Was there no room between ?

Jones. No, there was not.

L. C. J. The woman speaks sensibly : if you have done asking questions, you had best call your witnesses.—*Pris.* Call Mr. Hyet.

L. C. J. Mr. Hyet, you cannot be sworn, but you must speak the truth as much as if you were : well, what can you say ?

Hyet. I asked Margaret Edwards if she had been at Mrs. Monington's ? she said she had : I asked her if she knew Mr. Kerne ? She said, she did not.

L. C. J. Was she upon her oath when you asked her this ?

Hyet. No, my lord.

L. C. J. Have you any more witnesses ?

Pris. Call Mr. Weston's maid.

L. C. J. What can you say ?

West. M. I saw those two women talking together, and that woman instructed the other what she should say.

L. C. J. What say you to this ?

Edwards and Jones. My Lord, we did not.

L. C. J. Look you, they both deny it on their oaths.

L. C. J. How often between the first time and the 29th of May was twelvemonth, did you see Mr. Kerne ?

Edwards. Twice or thrice in Wenbly.

L. C. J. What can you say for yourself ?

Pris. My Lord, I am very happy that I receive my trial before your Lordship.

L. C. J. Come, setting aside your apologies, tell what you have to say ; if you have any more witnesses, call them.

Pris. My Lord, here are several witnesses who will prove that that woman was never at Mrs. Monington's.

L. C. J. That is very improbable ; but call whom you will.

Pris. My Lord, here is Mrs. Monington, the person she pretends shewed her up, will swear she never saw the woman in her life ; and upon my salvation I never saw either of them before.

L. C. J. Mrs. Monington, the law will not allow you to be sworn, but I presume that a person of your quality will speak the truth, as much as if you were upon your oath. Do you know Margaret Edwards ?

Mon. My Lord, I do not.

L. C. J. Woman, tell Mrs. Monington from whom you came.

Edwards. I came from James Harris of Lempster.

L. C. J. Mrs. Monington, do you know James Harris of Lempster ?

Mon. My Lord, I do not.

L. C. J. Do you remember that about May was twelvemonth this woman came to you for physic for a woman that was sick ?

Mon. A great many people come to me on that errand, so that it is impossible for me to remember any particular person.

L. C. J. Did you ever take up that woman to hear mass ?

Mon. That I am sure I did not, for I never took up any stranger in my life.

L. C. J. Did Mrs. Monington know you by face or by name?

Edwards. I had been at the house several times, but this time I was carried up to Mrs. Monington by Mary Lewis her maid; Mrs. Monington told me that she was very glad that I was sent, for she said she would not give the man so just an account, because he was a man.

L. C. J. Mrs. Monington, do you remember this?

Mon. This is frequent.

Edwards. Then she told me that I must put a plaister of diapalma to the woman's back, and give her a drink with malt with raisins, &c.

Mon. As for the plaister, it is possible I may prescribe it, but the drink is no receipt of mine.

Edwards. My Lord, the maid when I came in was making a cheese in the dairy, and I asked for Mrs. Monington, and she told me she was within, and straightway brought me up to her: Mrs. Monington in a little time fell into discourse with me about religion; and understanding what I was, desired me to go into the chamber with her.

L. C. J. What kind of chapel was it?

Edwards. I will give an account of it as well as I can remember. When we came up stairs we turned in at a door on the right hand; the altar stood just before the door; it was richly adorned, the altar-cloth was white, and a fine crucifix on the altar.

Mon. What were the cushions of?

Edwards. As I remember they were needlework.

L. C. J. What was the chapel adorned with?

Edwards. With abundance of pictures: I think the window was on the left hand of the altar.

Mon. She has failed in the first description, for we go not off the stairs into the chapel, as she says; neither is it adorned in the manner as she says it is, nor is there any needlework. Here is a maid that I deliver all my medicines to, that perhaps can give a better account whether this woman were at my house, than I can.

L. C. J. Call the maid. You wait on Mrs. Monington: did you ever see that woman?

Maid. No.

L. C. J. I will shew you how you shall remember her; she came to Mrs. Monington on the behalf of one Harris's wife, and asked if she were within, and you carried her to your mistress.

Edwards. My Lord, I was there several times besides this, for I carried the child, Mr. Thomas Monington, thither several times.

L. C. J. Do you remember this?

Mon. I do not remember that she ever brought the child to me, but another.

Edwards. My Lord, I always lay with him, and tended him, and carried him abroad.

L. C. J. If you have any thing more to say, speak. What say you for yourself?

Pris. I hope your lordship will sum up the evidence.

L. C. J. That I will: I will tell the jury all I can remember on both sides; I will not shed innocent blood, neither will I help the guilty; for I, by the duty of my place, am counsel for the prisoner in all things fit and legal.

Pris. I desire the statute may be read.

L. C. J. Let it be read. What statute do you mean, that of 27 Eliz.?

Pris. Yes, my Lord. [Then the statute was read.]

Pris. Now, Gentlemen, I desire you to take into consideration, whether my blood shall be drawn by the evidence of a woman that says she saw give me a wafer; or on that evidence of the other, who says she heard me read she knows not what through a wall: my lord, it is an oppression that statutes should be construed otherwise than they are intended. I hope, my Lord, that the statute will not take hold of a man for saying mass, for many say masses that are not in orders.

L. C. J. It is one of the greatest evidences to prove a man to be a priest that can be; for we cannot think of bringing witnesses who saw you take orders: Do any say mass but priests? Is it lawful for any one but a priest to say mass?

Pris. That of bread and wine they do not, but the other they do.

L. C. J. Do any bury or christen but priests?

Pris. Yes they do in *extremis*; and, my lord, I do acknowledge that I read prayers sometimes, and sometimes others did. And I desire your lordship and the jury will take notice, that I have taken the oaths of Allegiance and Supremacy.

L. C. J. Is that all you have to say?

Pris. Yes, my lord.

L. C. J. Then gentlemen of the jury, The matter you are to try is, whether Charles Kerne, the prisoner at the bar, be a popish priest: An Englishman I suppose he does not deny himself to be; the question is then if he be a Romish priest? If so he is guilty of high-treason by the statute of 27 Eliz. This was a law made for the preservation of the queen, for the preservation of our religion, and for the preservation of all Protestants. The witnesses are Margaret Edwards and Mary Jones. Margaret says, the first time that she saw the prisoner was at Mr. Wigmore's, who told her it was Mr. Kerne; and she says that she hath seen him several times since; twice or thrice at Weobly, and the last time was the 29th of May was twelvemonth, at Mrs. Monington's, where she saw him deliver the wafer, which is the sacrament, to four persons that were there, but she herself did not receive it; and then she gives you an account of the reason of her coming then to Mrs. Monington's, which was at the request of one Harris, whose wife was sick, to seek some remedy from Mrs. Monington for the sick woman: She tells you how the maid brought her up to her mistress, how she acquainted her with her errand, what advice Mrs. Monington gave her for the sick woman, and how that Mrs. Monington understanding what religion she was of, took her into the chapel

whereof she gives you a description. It is very probable she may go on such an errand, yet Mrs. Monington not know her, but Mrs. Monington cannot positively say, but believes she was never there: Mr. Kerne, I suppose, will not deny but that he who gives the wafer is a priest.

Pris. There is blessed bread which others may give.

L. C. J. When you give such bread, do you not say, Accipi Corpus Christi?

Pris. We use no such words. [But it appeared, upon his own repeating of the Latin words they used upon the giving the sacrament, that those were part of the words.]

L. C. J. The prisoner made an offer to prove some disagreement between the witnesses; it is true, they did differ in some small things, as the saying the word mass, but from hence can no great matter be inferred against the evidence; so here is one positive evidence.

There must indeed be two witnesses; now the question will be about the second woman's testimony. She says she knew Mr. Kerne about eight years ago, when she lived at Mr. Somerset's, and that Mr. Kerne lived in the house about half a year: She tells you that she hath seen several persons come thither; and amongst the rest, she says, that one Sunday morning several persons came thither; and went up with Mr. Kerne, and that she was so curious as to hearken, and did hear Mr. Kerne say something in an unknown tongue: Kerne objects that she could not know it was his voice; but for that, I think men are easily distinguished by their voices; but that I must leave to your consideration.

But now the main question will be, what it was she heard him say? Mr. Kerne says,

that in times of straitness, persons that are not priests may read prayers, and so perhaps he may be then reading the collects

But then again: She says there was a child christened in the house, and no one there but Mr. Somerset and his wife, Mr. Lachet and his wife, and Mr. Kerne to do it: She did not see him christen it, and it is true likewise what he says, that in their church they allow others, as midwives, to christen in *extremis*; not that he confesses he did christen.

L. C. J. Call Mary Jones again. Mary Jones, was it a sickly child?

Jones. No, my lord.

L. C. J. Then that is answered: So that if you believe that he did christen the child, there are two witnesses against him: I must leave it with you as a tender point on both sides; I would not shed innocent blood, neither would I willingly let a popish priest escape. There is one positive witness, and if you believe upon the woman's hearing his voice, that he did say mass, or did christen, for I must confess she says she did not see him christen, then you must find him guilty: So I leave it to you upon the whole matter.

The Jury returned, and were called over.

William Barret, &c.

Cl. of Arr. Jailor, set up Charles Kerne.

Gentlemen, Are you agreed of your verdict?

Jury. Yes.

Cl. Who shall say for you?

Jury. The Foreman.

Cl. Look upon the prisoner: What say you, is Charles Kerne guilty of the high-treason whereof he stands indicted, or not guilty?

Foreman. Not Guilty.

255. The Trial of ANDREW BROMMICH, at Stafford Assizes, for High Treason, being a Romish Priest: 31 CHARLES II. A. D. 1679.*

The Court being sat, they proceeded to the Trial thus.

THE Lord Chief Justice having the night before charged the sheriff to return a good jury, and the court being sat, he enquired of him if he had observed his directions; the sheriff ac-

quainted his lordship, that since he had impannelled the said jury, he had heard that one Allen, of in the said county, being then returned to serve on the said jury, had said in discourse with some of his fellows, that nothing was done against the popish priests above, and therefore he would do nothing

* Published in 1679, under the following Order: "I do appoint Robert Pawlet to print the Trials of Andrew Brommich, William Atkins and Charles Kerne, and that no other person presume to print the same. WILLIAM SCROGGS."

In the same year was also published: "The Trial and Condemnation of two Popish Priests, Andrew Brommich and William Atkins, for High Treason, at Stafford Assizes, August 16, 1679, with an Account of the Notable Equivocation of some Witnesses of the Romish Church there produced. And the Reason thereof from

their own Authors. Mr. Stephen Dugdale, one of the Grand Evidences of the Popish Plot, being there present. London, printed for John Amery, at the Peacock in Fleet-street, 1679.

"Were there no other evidence of a Popish Plot lately, I wish I could not say still carried on, for subverting the established government and religion of these kingdoms of Great Britain and Ireland, the only remaining bulwark of the Protestant interest throughout the world; The unusual resort and numerous swarms of Jesuit priests, and other Romish lo-

against them here, nor find them guilty; whereupon his lordship called for the said Allen and one Randal Calclough, one of his fellow jurymen, and another witness upon oath, who pro-

ceeds from their outlandish seminaries of Rome, Valladolid, Saint Omers, Doway and Rhemes (those constant nurseries, and for about 100 years continued rendezvous of rebellion and treason, ever since Allen, afterwards a cardinal, laid the first platform at Doway in the year 1568) that have of late come into England; might be a sufficient proof that they had some more than ordinary design in hand. For though by the statute of the 27th Elizabeth, on most just and necessary reasons, viz. Their disowning her majesty's right to the crown, and justifying her deposal by the Pope, and that all her subjects were discharged from their allegiance, and all obedience to her, &c. It was made capital for any of those seminarists to come into these kingdoms; so that their first setting a step on English ground was by law High Treason, yet such is their confidence, that well knowing the premises, they daily came over in great numbers, and as if they had a public indulgence, did not stick continually to pervert and seduce his majesty's subjects to the idolatries and superstitions of the Romish Church. Yet had this been all and managed with any modest colourable pretence of conscience, it might possibly have been borne with by our most gracious sovereign, the best and most merciful of princes, without exacting the severity of those laws; but when these very men so obnoxious before to just punishment, have so far abused his majesty's lenity and compassionate good nature, as to contrive and vigorously promote horrid designs against his sacred life, and what is yet more dear to him, the true Protestant religion, as it is most apparent they lately have done, it cannot but be thought high time to restrain their insolence, by putting in execution those wholesome laws, which their continual treasonable practices have not only justified, but rendered absolutely necessary for the preservation of his life and crown.

"In pursuance hereof, in such a juncture of affairs, the honourable judges of assize had particular order to give in charge the strict prosecution of all Jesuits and Popish priests that might be discovered in their respective circuits; and it is wonderful, considering the subtle disguises and caution of that sort of men, and the secrecy of their seduced followers, who as strictly conceal their priests, as those do their confessions, that so many should be discovered.

"At the assizes of Stafford there were no fewer than nine persons charged as Popish priests, whereof two, viz. George Hopson and Robert Peters, as being it is said obnoxious to an indictment of another nature, are to be removed to London, the writs for that purpose being now in the sheriff's hands: five others suspected on violent presumptions to be Jesuits, are ordered to remain in custody till the next assizes; the evidence against them that ap-

pears for the present, not being full enough, according to the mercifulness of our English laws, to proceed against them to a legal conviction: though it is credibly reported and reasonably believed there will, before that time, come in sufficient and demonstrable proof.

"The other two, viz. Andrew Brommich late of Perry-bar, and William Atkins of Wolverhampton in this county of Stafford (for the multitude of Papists roosting there, commonly called Little Rome) did now come to their trials. The first was a young lusty brisk fellow, lately come from beyond the seas, and as he pretended (according to the usual arts of that tribe who are never to seek for an excuse) a merchant heretofore in France and Portugal: which may pass well enough under the favour of a Catholic figure. For no doubt he had good store of Roman commodities to vend amongst his silly Popish chapmen, as consecrated beads, crucifixes, Agnus Dei's, pardons, indulgences, and such like trumpery, with not a little sedition, rebellion and treason into the bargain. The first and most material witness to prove him a priest, was one Anne Robinson, who about a year ago was a Papist, and then seduced to that religion by a wheedling priest, who is since fled; but upon consideration of the horrid plot carried on by those of that religion, and the charitable pains of some Protestant divines, she hath been reduced again to the Church of England. The evidence she gave against him, was to this effect:

"That about Christmas last he said mass, and she received the Eucharist or Sacrament from him in a wafer, in a private Popish conventicle, six or seven being then in company; and before that time twice at one Mr. Purcel's, and twice at one Mr. Birch's.

"But most observable it was, that there being two others, known Papists, summoned in for evidence, and whom she swore positively to have received the Sacrament, and heard him say mass the same times with her; they notwithstanding, according to the common principles and practices of their fraudulent religion, which teaches them to dispense with truth, or the most sacred oath, to save a priest from danger, did foully equivocate in their evidence, and denied that they knew him; but the contrary was proved upon them, and thereupon, and other concurrent evidence and irrefragable circumstances, the jury was satisfied, and brought him in Guilty.

"But lest any affronted Papist should say, or weak Protestant think, that I wrong the Popish Church in asserting, that they teach, a person may lawfully deny the truth, or affirm a lie; though upon oath, to secure one of their priests, I shall here make it good from their own approved authors, and then leave the indifferent reader to judge what account is to be

were discharged upon suspicion of being popishly affected, his lordship commanding the sheriff to return good men in their places; which was accordingly done, and the jury sworn, viz,

Thomas Higgin, John Webb, Edward Ward, Thomas Marshall, John Beech, Randal Calclough, Richard Trindall, James Beckett, William Smith, William Pinson, Daniel Buxton, and Richard Cartwright.

Cl. of Arr. Gaoler, set up Andrew Brommich to the bar: Crier, make proclamation.

made of these mens' perjury, or the late impudent lies of the novices from St. Omers against Dr. Oates's testimony. Our first proof shall be taken from no less than a whole Popish college, viz that of Rhemes, who in their annotations on their English translation of the New Testament, upon Acts 23, verse 12, lay down this doctrine in these express words; 'If thou be put to an oath to accuse Catholics for serving God as they ought to do, or to utter any innocent man to God's enemies, and his, thou oughtest first to refuse such unlawful oaths: but if thou have not constancy and courage so to do, yet know thou, that such oaths bind not at all in conscience and law of God, but may, and must be broken under pain of damnation.'

"Secondly, to shew you how you shall shift and deny the truth in such cases, I shall cite another document of theirs, in a book entitled, 'A Treatise tending to Pacification,' printed *permissu superiorum*, in the year 1607; and said to be written by their famous Jesuit, Parsons. Page 426, he thus instructs his Catholics; 'Our doctors say and maintain, that when the judge is not lawful [so with them is every Protestant judge, especially when he meddles with their priests] or that he inquireth of secrets which appertain not to his jurisdiction, then any witness may refuse to answer, yea, though he hath first sworn to answer directly, may use a refuge, that is to say, he may deny all in form, or use doubtful or equivocal words, and other such manner of ordinary evasions, which if they prevail not, then he may deny and say, 'Nihil scio, nihil vidi, nihil audivi,' I know nothing of the matter, I have seen nothing, I have heard nothing, reserving [Pray observe the horrid cheat, how to baulk an oath, and stifle conscience in a Roman Catholic way] in his mind the other part (of the intended equivocating sentence) that he knoweth nothing, hath seen nothing, nor heard nothing within that unjust examination he is bound to answer.'

"The same author, p. 435, asserting and justifying the use of equivocation, recites with approbation this case, put by one Sotus, one of their Popish doctors: 'If,' saith he, 'I having seen Peter kill John, and being afterwards examined upon the same unjustly,' (and we guess how far that will extend in a Catholic sense) 'whether I may say I know nothing thereof?' To which he giveth this answer;

Crier. O yes! If any one can inform my lords the king's justices, the king's sergeant, the king's attorney, or this inquest now to be taken, of any treasons, murders, felonies, or other misdemeanors, committed or done by the prisoner at the bar, let them come forth and they shall be heard.

Cl. of Arr. Andrew Brommich, hold up thy hand. These good men that were lately called and have now appeared, are those which must pass between our sovereign lord the king and you upon your life or death: If you will chal-

'Respondetur quod jure possum respondere, 'Nescio; quia jure intelligitur, nescio, ut dicam; aut nescio eo modo quo jure debeam dicere:' 'I affirm, that I may rightly answer, that I know nothing thereof, that is, I know it not to declare it; or I know it not in such a manner, as by law I ought to utter the same.'

"An hundred such instances might be given from their own approved pens; and who can think but the private instructions of their little Father-Confessors are agreeable to these rules of their great doctors; and therefore it is no wonder if these two well disciplined papists denied upon their oaths, that they knew this their ghostly Father Mr. Brommich, that is they did not know him in their sense to be guilty of treason, or to have taken orders at Jerusalem, or any thing else that they should please to have reserved in their fallacious minds. As for the other person indicted, Mr. Atkyns, the evidence was very full and home that they heard him say mass and prayers in an unknown tongue; that they saw him administer the sacrament in a wafer after the manner of the church of Rome; and one of the witnesses swore directly, that he himself had been at confession with him, and received absolution from him; so that he was likewise brought in guilty: and the court proceeded to pronounce sentence of death against them, according to law. But by order, their execution is respited, till his majesty be further informed, and shall declare his gracious pleasure therein.

"There were likewise these assizes, tried one Mr. Kerne, a seminary priest at Hereford, and one William Jones of the same quality at Monmouth. But against each of these there being but one positive witness, as to saying mass in their vestments, administering the sacrament, &c. and the rest of the evidence only circumstantial, neither of them were brought in guilty.

"And hereby the whole world may take notice of, and admire the clemency of his majesty, the tenderness of his laws, and the moderation of his Protestant subjects; and how little reason papists at home, or their brethren abroad, have to complain of any hardship used towards them in England, when after such obstinacy in repeated treasons, and contempt of his majesty's proclamations, commanding them away, and the unparalleled provocation of their conspiracy, yet still they are proceeded against with all kind of equity, and allowed the utmost

lunge any of them you must speak as they come to the book to be sworn, and before they be sworn.

The Prisoner challenging none, the Jury was sworn, *ut ante*.

Cl. of Arr. Gentlemen of the jury, look upon the prisoner and hearken to his cause. You shall understand that he stands indicted by the name of Andrew Brommich, late of Perry Barr in the county of Stafford gent. for that he being born within the kingdom of England, the thirteenth day of January, in the thirtieth year of the reign of our sovereign lord king Charles 2, by the grace of God, of England, Scotland, France, and Ireland king, defender of the faith, &c. then being a seminary priest made, professed and ordained by the authority and jurisdiction challenged, pretended and derived from the see of Rome, the said thirteenth day of January in the year aforesaid, within this kingdom of England, viz. At Perry Barr aforesaid, in the county aforesaid, traiterously did come, was and did remain, against the form of the statute in that case made and provided, and against the peace of our sovereign lord the king, his crown and dignity.

Upon this indictment he hath been arraigned and hath pleaded thereunto Not Guilty, and for his trial hath put himself upon God and his country, which country you are: your charge is to enquire whether he be Guilty of the high-treason whereof he stands indicted, or Not Guilty: if you find him Guilty, you are to enquire what lands, goods, or tenements he had at the time of the treason committed, or at any time since: if you find him Not Guilty, you are to enquire whether he did fly for the same, and what lands, goods or tenements he had at the same time of such flight, or at any time since; if you find him Not Guilty, nor that he did fly for the same, you are to say so and no more, and hear your evidence.

privileges of law; and even those that happen to be convicted, oft-times after condemnation enjoy their lives, by the mercy of that prince whom their merciless faction would of late so impiously and ungratefully have murdered.

“What rigours and severities would other nations, and the Roman Catholics beyond the seas, have exercised upon such an occasion? Had the poor French hugonots, after all the infringements of their liberties, and daily oppressions, happened thus to have violated their loyalty, they must not have expected the formalities of law to convict them; nor the patience of authority to hear them, nor the indulgence of majesty to relieve them. A general massacre, promiscuous destruction, and exquisite tortures had been the least they could have hoped for from the incensed rabble, and their barbarous tyrannic hands, who have formerly in a base perfidious manner, slaughtered so many thousands of them, without the least pretence either of justice or provocation.”

VOL. VII.

Cl. of Arr. Crier call Ann Robinson. [Who was sworn.]

L. C. J. (Sir William Scroggs.) Ann Robinson, what can you say against Andrew Brommich?

A. Rob. My lord, I can say that I received the sacrament of him according to the church of Rome in a wafer.

L. C. J. When? How long ago?

A. Rob. About Christmas last.

L. C. J. What company was there? how many were there in company?

A. Rob. My lord, I cannot positively tell how many, but I believe there were about seven or eight.

L. C. J. Did they all receive at the same time?

A. Rob. Yes, my lord, they did all receive at that time.

L. C. J. Are you a papist?

A. Rob. No, my lord.

L. C. J. How long were you a papist?

A. Rob. Several years.

L. C. J. Who first seduced you?

A. Rob. My lord, I cannot tell his name.

L. C. J. Did you ever receive the sacrament according to their way, of Mr. Brommich, before the time you speak of?

A. Rob. Yes.

L. C. J. How often?

A. Rob. Four times, my lord; twice at Mr. Birch's and twice at Mr. Pursal's.

L. C. J. How came you to give her the sacrament? [to the Prisoner.]

Pris. My lord, I never did.

L. C. J. Why, she has sworn you gave it her several times, once in particular at Christmas last, and four times more, twice at Mr. Birch's, and twice at Mr. Pursal's.

Pris. My lord, I cannot help it. I desire your lordship will take notice of one thing, that I have taken the oaths of Allegiance and Supremacy, and have not refused any thing which might testify my loyalty.

L. C. J. That will not serve your turn, you priests have tricks to evade that.

Pris. Besides, my lord, I never absconded.

L. C. J. You never absconded? what is that to giving the woman the sacrament several times?

Pris. My lord, I desire she may prove it.

L. C. J. She does so.

Pris. My lord, I humbly conceive it was no sacrament unless I were a priest.

L. C. J. What an argument is that? You expect we should prove you a priest by witnesses which saw you take orders; but we know so much of your religion, that none undertake to give the sacrament in a wafer, or say mass, but a priest; and you gave the sacrament to that woman in a wafer, therefore you are a priest.

Cl. of Arr. Crier, call another witness; swear Jeoffrey Robinson.

L. C. J. What can you say to Mr. Brommich?

Jeof. Rob. I can say nothing against him.

3 A

L. C. J. Did you ever hear him say mass?

Jeof. Rob. I cannot tell, I have heard him say something in an unknown tongue; but I know not what it was.

L. C. J. Was it Latin that he said?

Jeof. Rob. I cannot tell: I am no scholar.

L. C. J. Had he a surplice on?

Jeof. Rob. Yes, my lord, he had.

L. C. J. Robinson, are you a Papist?

Jeof. Rob. Yes, my lord.

L. C. J. I thought so, it is so hard to get the truth out of you.

Cl. of Arr. Crier, swear Jane Robinson.

L. C. J. Come, what can you say? Did you ever see Brommich give the sacrament?

Jane Rob. Not to my knowledge.

L. C. J. Did you ever hear him say mass?

Jane Rob. I never saw him do any thing; for I only went up and said my prayers, I took no notice of any thing.

L. C. J. Did not you see Brommich there?

Jane Rob. I cannot tell.

L. C. J. Why, don't you know him?

Jane Rob. No, my lord.

L. C. J. Your husband knows him. You Jeoffrey Robinson, do not you know Mr. Brommich?

Jeof. Rob. Not I, my lord.

L. C. J. That is right like a papist. Did you not but just now say you heard him say something in an unknown tongue, and saw him in a surplice, and yet now you do not know him? you have no more conscience than what your priests allow you. But though your priests can persuade you to take false oaths, I would not have you think they can protect you from the punishment due to them here or hereafter.

An. Rob. My lord, they both took the sacrament with me at the same time from him.

L. C. J. Look you there, was ever the like impudence seen? Come friend, consider you are upon your oath, and do not bring yourself into the snare of a pillory. Come Robinson, I ask you by the oath you have taken, did you ever receive the sacrament with Ann Robinson at the time she speaks of at Mr. Pursal's?

Jeof. Rob. Yes, my lord.

L. C. J. How hard the truth is to be gotten out of you! But within this country, which abounds so with priests and swarms with papists, that you get popery here like the itch; if they but rub upon you, you catch it.

Jane Rob. My lord, he is a weak man.

L. C. J. Who gave it you?

Jeof. Rob. I do not know.

L. C. J. He will say no more than his wife and the priest will give him leave.

L. C. J. Look you gentlemen of the jury, here are two papists that are witnesses; you are to consider how far they tell the truth, and how far they conceal it, how they tell their tale so as to serve a turn: For here you see the man said at first he heard him say somewhat in an unknown tongue, and that he saw him in a surplice; after that he denies he knows him, but now you see by this woman the truth is

come out; he hath confessed and owned he received the sacrament at Pursal's with her. We cannot expect more positive evidence from such people. Come read the statute.

Anno 27 Eliz. cap. 2.*

"Whereas divers persons, called or professed Jesuits, seminary priests, and other priests, which have been, and from time to time are made in the parts beyond the seas, by or according to the order and rites of the Romish church, have of late come and been sent, and daily do come and are sent into this realm of England, and other the queen's majesty's dominions, of purpose (as it hath appeared) as well by sundry of their own examinations and confessions, as divers other manifest means and proofs, not only to withdraw her highness's subjects from their due obedience to her majesty, but also to stir up and move sedition, rebellion and open hostility within the same her highness's realms and dominions, to the great endangering of the safety of her most royal person, and to the utter ruin, desolation and overthrow of the whole realm, if the same be not the sooner by some good means foreseen and prevented.

"For reformation whereof be it ordained, established and enacted by the Queen's most excellent majesty, and the Lords spiritual and temporal, and the Commons in this present Parliament assembled, and by the authority of the same Parliament, That all and every Jesuits, seminary priests, and other priests whatsoever, made or ordained out of the realm of England, or other her highnesses dominions, or within any of her majesty's realms or dominions, by any authority, power or jurisdiction, derived, challenged, or pretended from the See of Rome since the feast of the nativity of St. John Baptist, in the first year of her highnesses reign, shall within forty days next after the end of this present session of parliament depart out of this realm of England, and out of all other her highnesses realms and dominions, if the wind, weather, and passage shall serve for the same, or else so soon after the end of the said forty days as the wind, weather and passage shall so serve.

"And be it further enacted by the authority aforesaid, That it shall not be lawful to, or for any Jesuit, seminary priest, or other such priest, deacon, or religious, or ecclesiastical person whatsoever, being born within this realm, or any other her highnesses dominions, and heretofore since the said feast of the nativity of St. John Baptist in the first year of her majesty's reign made, ordained or professed or

* This statute, says Mr. East, seems to be provisionally repealed by the 4th sec. of the stat. 31 Geo. 3. c. 32. in respect of such as take the oath of allegiance, abjuration, and declaration therein mentioned. Mr. Burke observes with great severity upon this statute in his most eloquent speech delivered at Bristol in the year 1780.

hereafter to be made, ordained or professed by any authority or jurisdiction derived, challenged or pretended from the See of Rome, by, or of what name, title or degree soever the same shall be called or known, to come into, be or remain in any part of this realm or any other her highnesses dominions, after the end of the same forty days, other than in such special cases, and upon such special occasions only, and for such time only as is expressed in this act. And if he do, that then every such offence shall be taken and adjudged to be High Treason, and every person so offending shall for his offence be adjudged a traitor, and shall suffer loss, and forfeit as in case of High Treason.

"And every person which after the end of the same forty days, and after such time of departure, as is before limited and appointed, shall wittingly and willingly receive, relieve, comfort, aid or maintain any such Jesuit, seminary priest, or other priest, deacon or religious, or ecclesiastical person as is aforesaid, being at liberty, or out of hold, knowing him to be a jesuit, seminary priest, or other such priest, deacon or religious, or ecclesiastical person as is aforesaid, shall also for such offence be adjudged a felon without benefit of clergy, and suffer death, loss, and forfeit, as in case of one attainted of felony."

L. C. J. Come, what have you more to say?

Pris. I desire that there may be notice taken what Robinson and his wife said upon their examinations before the justice of peace.

L. C. J. We are to take notice only of what they say here.

Pris. My lord, they said here they did not know me.

L. C. J. No: Did not Robinson say he heard you say something in an unknown tongue; that he then saw you in a surplice? Did we talk of any one but you? Come Jesuit, with your learning, you shall not think to baffle us; I have of late had occasion to converse with your most learned priests, and never yet saw one that had either learning or honesty.

L. C. J. Have you any witnesses? Have you any more to say?—*Pris.* No.

L. C. J. Then gentlemen of the jury, the question you are to try, is, whether Andrew

Brommich be a popish priest or not: To prove that he is, here is a woman, one Ann Robinson, that swears she received the Sacrament of him in a wafer once at Christmas last, and twice at Mr. Birch's, and twice at Mr. Pursal's, and that he gave it to several others at the same time. There needs not much to persuade you that he who gives the Sacrament is a priest, for in their church they allow no one but a priest to give the Sacrament, so there is one express evidence against him. And now I must satisfy you in one thing, that you are to give a verdict not that he is a priest, but that you believe him in your conscience upon the whole evidence to be a priest. To make you do this, here is one positive evidence.

The other man, when I came to examine him whether he ever heard the prisoners say Mass; he answered, that he heard him say something in an unknown tongue, and that he was in a surplice. This is as much as we could expect from one of their own religion, who dare say no more than their priests will give them leave to do. So gentlemen I must leave it to you, whether or know you will not believe the testimony of this real positive witness, and the circumstantial evidence of the other man: For you see in what dangers we are; I leave it upon your consciences, whether you will let priests escape, who are the very pests and dangers of Church and State; you had better be rid of one priest than three felons; so gentlemen, I leave it to you.

The jury having staid some time, returned to the court to give their verdict.

Cl. of Arr. Gentlemen of the jury, have you agreed on your verdict?

Jury. Yes.

Cl. of Arr. Who shall say it for you?

Jury. The foreman.

Cl. of Arr. Gaoler, set up Andrew Brommich to the bar.

Gentlemen, do you find Andrew Brommich Guilty of the High Treason he hath been arraigned of, or Not Guilty?

Jury. Guilty.

L. C. J. Gentlemen, you have found a good verdict, and if I had been one of you, I should have found the same myself.

Afterwards he received the usual sentence as in High Treason.

256. The Trial of WILLIAM ATKINS, at Stafford Assizes, for High Treason, being a Romish Priest: 31 CHARLES II. A. D. 1679.

Cl. of Arr. GAOLER, set up William Atkins to the bar: Crier, make proclamation.

The Jury were called and sworn.

Cl. of Arr. Gentlemen of the jury, look on the prisoner and hearken to his cause. You shall understand that he stands indicted by the name of William Atkins, late of Wolverhampton in the county of Stafford, gent. for that he being born within the kingdom of England, the

5th day of December, in the 30th year of the reign of our sovereign lord king Charles the 2nd, by the grace of God, of England, Scotland, France and Ireland king, defender of the faith, &c. Then being a seminary priest, made, professed, and ordained by the authority and jurisdiction challenged, pretended, and derived from the See of Rome; the said fifth day of December in the year aforesaid, within this kingdom of England, viz. at Wolverhampton

aforesaid in the county aforesaid, traiterously did come, was, and did remain, against the form of the statute in that case made and provided; and against the peace of our sovereign lord the king, his crown and dignity.

Upon this indictment he hath been arraigned, and thereunto pleaded Not Guilty; and for his trial he hath put himself upon God and his country, which country you are. Your charge is, to enquire whether he be Guilty of the high-treason whereof he stands indicted, or Not Guilty: if you find him Guilty, you are to enquire what lands, goods or tenements he had at the time of the high-treason committed, or at any time since; if you find him Not Guilty, you are to enquire whether he did fly for the same; if you find he did fly for the same, you are to enquire what lands, goods or tenements he had at the time of such flight, or at any time since; if you find him Not Guilty, nor that he did fly for the same, you are to say so and no more and hear your evidence.

Cl. of Arr. Crier, call the witnesses; call William Jackson, Francis Wilden, Jo. Jarvis, &c. Swear Jackson. [Which was done.]

L. C. J. Come, friend, what can you say concerning Atkins the prisoner being a priest?

Jackson. My lord, I can say nothing at all, I was there when he was apprehended, and bound over to prosecute him.

Cl. of Arr. Crier, Swear Francis Wilden. [Which was done.]

L. C. J. What can you say concerning Atkins being a priest?

Wilden. My lord, I have seen him at prayers.

L. C. J. Was he in a surplice then?

Wilden. Yes, my lord.

L. C. J. Did you ever hear him say mass?

Wilden. I cannot tell.

L. C. J. In what language were his prayers?

Wilden. In an unknown tongue.

L. C. J. Were they in Latin?

Wilden. I cannot tell, my lord; I am not a scholar good enough to know.

L. C. J. Are you a papist?

Wilden. I have been a Protestant since Christmas.

L. C. J. It is the principle of a Protestant to tell downright truth, and the principle of a papist is to equivocate; come speak truth, and your conscience will be lighter: did you ever see Atkins deliver the Sacrament in a wafer, according to the manner and way of the Church of Rome?

Wilden. My lord, I never received it of him myself, but I have seen him give it to others.

L. C. J. Where?

Wilden. At Mrs. Stanford's, at Wolverhampton.

L. C. J. To how many?

Wilden. To seven or eight at a time.

L. C. J. Was he in a surplice then?

Wilden. Yes, my lord.

L. C. J. I do not know whether the prisoner can hear what the witness says; it is fit he

should know. [The prisoner being told, he replied, he knew not the witness.]

Cl. of Arr. Swear John Jarvis.

Crier. My lord, he refuseth to be sworn.

L. C. J. Jarvis, why will you not be sworn?

Jarvis. My lord, I was troubled with a vision the last night.

L. C. J. You mistake, friend, old men dream dreams, it is young men see visions, and you are an old man: speak the truth, and I will warrant you, you will not be troubled with visions any more; this is a trick of the priests. Swear him, Crier. [Which was done.]

L. C. J. Come, Jarvis, what can you say?

Jarvis. My lord, he is a man that hath relieved me and my children oftentimes when I was in want.

L. C. J. Did you ever hear him say mass?

Jarvis. My lord, I am an ignorant man; I cannot tell; I have heard him say somewhat in an unknown tongue.

L. C. J. Did you ever confess to him?

Jarvis. Yes, my lord, I did.

L. C. J. Did you ever receive the Sacrament of him according to the manner of the Church of Rome?

Jarvis. Yes, my lord, I have; I must speak the truth.

L. C. J. How often?

Jarvis. A great many times.

L. C. J. And had he not his priest's habit on when he gave it you?

Jarvis. Yes, my lord, he had.

Cl. of Arr. Crier, call Joan Wright. [Who was called, but did not appear.]

Call Henry Brown. [Who appeared and was sworn.]

L. C. J. Come, Mr. Brown, what can you say against the prisoner? Did you ever receive the Sacrament of him, or hear him say mass?

Brown. My lord, I was almost turned from the Protestant religion to that of the Church of Rome; but I never went further than confession, and that was to this man, and then I left them.

L. C. J. Indeed you were the wiser.

Cl. of Arr. Crier, call Tho. Dudley. [Who was sworn.]

L. C. J. What can you say against the prisoner?

Dudley. I was a little given that way, and have been at confession with one Atkins, and have seen him perform several rites of the Church of Rome, at Well-head, at Ham.

L. C. J. Do you believe this to be the man?

Dudley. Yes, my lord, I do.

L. C. J. Have you any more to say?

Dudley. No, my lord.

L. C. J. Read the statute. [Which was done.] Have you witnesses, Atkins, or any thing to say for yourself?

Pris. No, my lord.

L. C. J. Lock you gentlemen of the jury, Here is as full and as positive an evidence as can be against the prisoner: the two first witnesses, Wilden and Jarvis, are positive. Wilden swears he heard him say his prayers in an un-

known tongue; and further says, that he gave the Sacrament to seven or eight according to the manner of the Church of Rome in a wafer, at Mrs. Stamford's house in Wolverhampton. Jarvis, the other witness, swears that he hath been at confession with him, and hath oftentimes received the Sacrament of him. Here are two other honest men, that speak very full as to circumstances; so that in the whole you cannot have a more clear evidence: and, gentlemen, I must tell you, it is to these sorts of men we owe all the troubles and hazards we are in, the fear of the king's life, the subversion of our government, and the loss of our religion. It is notorious by what they have done, that they are departed from the meekness and simplicity of Christ's doctrine, and would bring in a religion of blood and tyranny amongst us. As if God Almighty were some omnipotent mischief, that delighted and would be served with the sacrifices of human blood. I need not say more to you, the matter's plain; I

think you need not stir from the bar, but do as you will.

The Jury having considered of the Evidence some time, gave in their Verdict.

Cl. of Arr. Gentlemen of the jury, are you agreed of your verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. The foreman.

Cl. of Arr. Gaoler, set up William Atkins. [Which was done.] Gentlemen of the jury look on the prisoner. What say you, Is he Guilty of the High-treason whereof he stands indicted, or Not Guilty?

Jury. Guilty.

Cl. of Arr. What lands, goods or tenements had he?

Jury. None to our knowledge.

Cl. of Arr. Look to him, Gaoler, he is found Guilty of high-treason.

He received the sentence usual in cases of high-treason.

257. The Trial of FRANCIS JOHNSON, a Franciscan, at Worcester, for High Treason: 31 CHARLES II. A. D. 1679. [Written by Himself.*]

I BEING at London on All Saints-day, when the proclamation came forth to command all Catholics to depart from thence by the Friday following, I obeyed, and came to a friend's house in Worcestershire, not intending to stay there; but the king's second proclamation being presently published, That no Catholics should walk above five miles without being stopt, and carried before a justice to have the oaths tendered, I asked counsel of the wisest I could, both of Protestants (whereof one was a lawyer) and another a constable, as also of Catholics, Whether that proclamation did so strongly oblige, that it permitted me no longer to go further? They all concluded it was not secure to go, so I resolved to obey, and stay where I was, and with good reason.

First, Because all Catholics are obliged to obey the king's commands in all things that are not against our religion and conscience, and his commands in this nature are against neither.

Secondly, Should I have disobeyed, and have been taken, in penalty I should have suffered, which would not have been so directly for my conscience and religion sake, as for disobeying the king's command; because in case I should be taken by staying there in obedience to the proclamation, and be carried before the justices to have the oaths offered, whatever I was to suffer for refusing them, I should have this

double comfort before God, and the king; before the king, because I rather chose to stay there, than remove against his command; before God, because I rather chose to go to prison, than to remove from his law, by taking the oaths against my conscience—Therefore I was taken and put in prison.

The Manner of my being taken was as followeth:

The Sheriff's deputy came to the house where I was with six or eight men, to arrest a gentleman in the house for debt: The officers coming into the house in the morning, and not finding the person they came for, broke down all the doors, and among the rest mine, before I was out of bed, and by a mistake arrested me, instead of the other gentleman; and although the deputy, coming into my chamber, looking on me, told them they were deceived, for I was not the man they came for; yet other soldiers coming into my chamber, one of them said he knew me: It seems he had been a servant in the house seven years before, therefore he said he would have me to the justices, and bid his companions secure me, and so they did, and would not let me go out of their sight until they carried me before the justice; And this they did, without either constable, or warrant, law or justice.

When I came before the justice of peace, I told him the occasion that had brought me to him; and if I would have taken the oaths, I had been presently freed: But I told them that persuaded me to take the oaths, That it was against the faith and religion I professed, and against my conscience, and I would never of-

* From a Pamphlet entitled; "A NARRATIVE of the proceedings and trial of Mr. FRANCIS JOHNSON a Franciscan, at Worcester, last Summer-Assizes, A. D. 1679; Written with his own hand as followeth: To which is annexed his Speech at his Execution, August 22, 1679."

send against either by so complying, whatever I suffered for the contrary.

The justice's wife was compassionate towards me, and desiring to speak privately with me, she used her best persuasions to me to comply with what was desired of me concerning the taking the oaths, for fear of further trouble or danger. I answered her with thanks, and told her that I was sorry she had no better opinion of me, than to think I had profest such a faith and religion all my life-time, and now upon the trial could be moved with any fear or danger (which God forbid.) I told her it was such a faith, that in it I deposed my soul, my confidence, heaven and eternal life, and therefore I never did, nor (by God's grace) never would fear to suffer for it what pleased God; For who could fear even death itself of the body whose life is momentary, for profession of that faith wherein he deposeth the eternal life of his soul?

This answer satisfied both her and myself, for I was resolved to make a public profession of my faith and religion; upon which I returned to the justice, who thought fit I should go to another justice, who was sir John Packington, whither also he went with me.

When I came to sir John, he asked me who I was? I answered him, I was a gentleman sufficiently known for these 20 years in Worcestershire to all sorts of people. He asked me of what calling I was? I answered him, of none. He asked me what estate I had? I answered I was no landed-man. Then he asked me, If I would take the oaths? I answered, I understood them not. He replied, Will you take them, or will you not? I told him if he pleased to let me see them, I should return him my answer.

Now the reason why I desired to see the oaths, was, because I was resolved to make a public declaration of my faith, that they were against my conscience, and therefore by declaring publicly the reasons why I could not take them, it should be publicly known, that whatsoever I was to suffer for not taking them, was for no other cause but for my faith and religion, because I would not swear against my conscience—For, would I have taken them, I had been there also freed.

When the oaths were brought to me, they told me I must read them out aloud, but I told them that because it was a public place, and many there present of several degrees, as well of the householders, as strangers, I feared least reading them aloud, some that heard me might think I swear what I read, and so might go and report they heard me take the oaths before the justices. But they declared they would not think so, so I read them over and over, which when I had done, I said aloud, God save the king; and then declared to both the justices, and all the rest in this manner.

I am ready to swear as followeth:

That I ever all my life-time have been, and now am, and ever will be to my last breath, as

faithful a subject to the king, as any subject whatsoever, and as faithful as if I should take the oaths now offered by them to me an hundred times over; but as for taking these oaths offered me, I could not take them whatever I suffered, and the reason was, because I understood what an oath was, and the conditions which God has prescribed to us, before any could call him to witness lawfully in taking of any such oaths.

The Conditions which God has prescribed I told them were these.

Thou shalt swear the Lord liveth in truth, and in judgment, and in righteousness; so that in every oath, the life of God, the truth of God, the judgment of God and his righteousness, are included by all which we swear, and the oath we take is to have all these conditions, truth, judgment, and righteousness, Jerem. 4.—Therefore if I should take these oaths which are concerning damnable doctrines and heresies, I must call God to witness that I no more believe him to be a living God and true God, a just and righteous God, than I believe these things contained in the oaths to be true, just and righteous, to swear to which oaths I do not nor cannot in my conscience believe to be so. For, before I or any man else can understand the contents of these oaths to be true, as to call God to witness that I believe them to be as true, just and righteous, I must be able to define what is faith or heresy in these contents I swear to, and I must know the full extent of all cases of this nature that God has left to all temporal princes and their power; I must also understand the full extent of all cases of this nature of power spiritual which God hath left in his church in or over christian kingdoms of temporal monarchs, which power in these oaths I am to swear on the one side, and forswearing the other.

I told them I was not of capacity nor knowledge to set the confines to each power, or to determine or define the extent given by God to all in this nature, so as to swear and call God to witness I am as sure of it, as I am sure he is a living God, as I must do if I take these oaths, the extent of which I did not understand in my conscience to be so as to believe them; Therefore I could not nor would not swear to them. I having spoken these things, nobody said any more to me, but the justices going out of the hall made my mittimus and sentence for Worcester prison, because I would not take the oaths they tendered me.

I have been since called to the bar at the sessions, where I spake to the same effect before Judge Street, and the justices, as I had spoken before to sir John Packington, having first asked their leave to speak, which they gave me for a little time, and then bid me return to the prison.—But first they were urgent with me to answer positively, Ay or No, was I jesuitical priest, or was I not? To which I answered, It was an easy thing for me to say No, but by saying No, I might prejudice others, who here-

after being asked the same question, if they did not answer No, it might be an argument that they were guilty, if they did not deny it, as others before them had done.—Therefore I desired that what proof could be brought against me, might be produced against me, and I would answer for myself: But I desired I might not be urged to answer Ay or No, to any thing, before some witness or argument came against me; for, I told them in such cases, neither law of God nor man obliged any one (although he was guilty) to bear witness against himself without some proof were alledged against him, for, that was no less than to be his own executioner.

The judge answered there were witnesses would swear against me.

I answered, if witnesses could make out what they swear of me, then my life was at the king's mercy: But in the mean time I told them I remained guiltless, though I did not answer them to their questions Ay or No, because I told them that being my saying No in my own behalf would not be sufficient testimony to acquit me, therefore there was no reason why any man should be urged to say Ay to accuse one-self though he was guilty.

Upon this the judge sent me to prison again at Worcester, where now I am, which imprisonment, in these times especially, when none can send to their friends, nor friends come to them, is the best means to teach us how to put our confidence in God alone in all things; and then he will make his promise good, That all things shall be added to us, Luke 12, which chapter, if every one would read, and make good use of, a prison would be better than a palace; and a confinement for religion, and a good conscience-sake, more pleasant than all the liberties the world could afford. As for my own part, God give me his grace, and all faithful Christians their prayers, I am happy enough; and as for others, I beseech God that the evil example of those that swear against their consciences, may not be guides for the rest to follow, nor their deeds a rule to their actions. We all ought to follow the narrow way, though there be many difficulties in it: It is an easy thing to run the blind way of liberty, but God deliver us all from broad, sweet ways. We know what Job saith of libertines, They lead their lives in the goods of this world, and in a moment they descend into hell. But, as our Saviour saith, What doth it profit a man to gain the world, and lose his soul?

God gave Job a goodly increase for all the riches he took from him, and blest his latter end more than his beginning, and gave him 140 years of flourishing life for his short affliction, in which, his constancy and faith in God was tried; and our Saviour promiseth an hundred fold to all that leave goods, and every thing willingly for his sake. Who well considers this, will be content to leave both friends and fortunes, and freedom by imprisonment, for their faith and religion-sake, till such time as it shall please God and the king (in obedience to whose

command they suffer) to release them. And in the mean time they will have this comfort, That they give a testimony they fear God, and honour the king; they fear God, because they choose rather to suffer persecution, than swear against their consciences; they honour the king, because they are willing to suffer the penalties he commands, and yet remain faithful subjects to him, whom God long preserve, (with his parliament and people, in all happiness.

On Tuesday, April 15, 1679. I came before judge Atkins at Worcester, to have my cause tried at the Sessions, having been committed 5 months before to Worcester-Castle by two justices of the peace, sir John Packington, and Mr. Townson, because I refused the oaths of supremacy and allegiance, and therefore was suspected to be a Jesuitical Priest.

The manner of my Trial was as followeth:

Four Witnesses were brought in against me; three of them were forced by warrant to come in, whether they would or no, from several towns, and were forced to speak all that they knew, had heard, or seen, concerning me; neither I, nor any of my friends knowing, that any would be compelled so to do, before the time of my trial was come. The fourth witness came of his own accord for lucre sake, who, the same day that I was first brought to Worcester prison, offered himself to swear before the mayor of the town, that I was a priest, before ever he came to see who I was.

The Testimony which he gave against me before the judge, was this:

He swore he had been at confession with me, and that he had received the Sacrament at my hands about 2 years before at his father's house, whilst he was a catholic; and after he became a protestant, he said I told him afterward he should turn back from whence he had fallen, else he would be damned.

The other three witnesses that were forced to come in against me, when they came before the grand jury, and were urged to take their oaths, to tell that which they never had known nor seen concerning my being a priest, they all unanimously declared, That they had nothing to say against me, and that they were by violence forced to appear there, and therefore they said they would never swear nor say any thing against me, for they knew nothing to accuse me of: which when the jury heard, they called for the gaoler to take the party that first denied to swear to prison, thinking by this violent way of proceeding so to affright them, that they should say something, out of which advantage should be taken against me; which the better to effect, they made them first lay their hands on the Bible, and then kiss it, which they did. Then the jury told them, that now they were to tell all the truth according as they were asked.—First they asked whether any of them had ever heard me read? One answered, yes, the Bible, and sometimes any other book. Then they asked, Whether they had ever seen me

pray? It was answered, yes. Then they asked what cloaths I had on when I prayed? And whether I used to change my cloaths when I came to pray? In these and other like questions they sifted them, to get out any thing that might do me hurt.

But how charitable or Christian-like these proceedings of the jury were, let the world judge now, as God will hereafter; for, if this be a charitable way of proceeding among Christians, that our neighbours should by such strange violence, as by warrant and oath be brought against their wills from any part of England, to swear whatever they have seen, heard, or known of their neighbours, what horrid confusions and odiums must this make among all sorts of people both friends and foes?—But I do not blame those three witnesses, after they had been inconsiderately induced to lay their hands upon the Bible, and kiss it; I suppose they judged themselves bound to say what they did.

After this, when the jury had got out of them what they could, the four witnesses and I were called before the judge. The first witness that came to swear against me, as the custom is, repeated his testimony over again before the judge, and so did the other three that were forced; which when I heard how absurd and insignificant some of their testimonies were, I inconsiderately smiled, at which the judge being offended, I humbly begged his pardon, and told him I was sorry for it.—But forasmuch as laughing or smiling were passions of nature, over which no man had a free course or power, I hoped and beseeched him not to impute it to me; he told me he would not be displeased at me for it. Then he asking me, whether I was guilty, or not guilty of my accusations? and I answering, Not Guilty, he bid me shew it, by answering for myself; I told him I was ready to do it; but told him first, I had an humble petition to his lordship, which was, that I desired a full and free liberty without hindrance to answer to every objection, and plead for myself; I also desired he would reflect in my behalf, that as he was to be my judge, so he was to be my advocate. And forasmuch as all earthly judges were to imitate the heavenly judge, who as advocate ten-thousand times mitigates the severity of a judge, whilst his hand of mercy is infinitely stretched forth beyond the hand of judgment. And therefore I begged of his lordship, that I might find the favour of an advocate from him, rather than the rigour of a judge, especially in those things which according to law may be advantageous or disadvantageous to me, which I understanding not how to make the best use of them, desired his lordship would vouchsafe to do it for me; which that the better he might be moved to do, I desired he would be pleased to consider that this my life and concerns were (in comparison of others greater) not so much considerable, I being but a private person, yet my little was to me much, because my little was my all; and my life to me were as much as *Cæsar's* or *Solo-*

mon's were to them; and as great a gift from God to me, as theirs to them; and therefore God has laid as great an obligation on me to defend myself and my life, as he had on them for theirs, and also had given to every one a strict command not to impair or prejudice me in the least, no more than the greatest potentate. Therefore being I was now brought before him in a case, where the world as much as concerns me, lay at stake, and my life, and my credit, I did humbly beseech his lordship to proceed accordingly with me, as I presumed according to his prudence and worth he would. He assented to what I petitioned, and did bid me speak for myself.

In answer therefore to the first voluntary witness against me, I told his lordship it was true, I had been at such a night at his father's house, and accordingly, as I was desired by him, I staid all night.—But as for this witness, I was a stranger to him, and he to me, as he confessed himself. Then the judge asked him, whether he knew me before or no? For he declared publicly, that he never knew me, nor saw me before or since, till he saw me at Worcester, and yet he said the next morning he made his confession to me, and I gave him the communion at mass as he supposed in my chamber; but he said that none of all the family was present at that time, only he and I alone; whereupon I desired the judge to consider what possible likelihood could be of the truth in this his affirmation, that I should come to a house where I was acquainted with them all, father, mother, and children, with all but this witness who as he declared knew me not, nor ever had seen me before, what likelihood is there I should say mass before him alone, hear his confession, and give him the sacrament, and so go away without any one of the family (with whom I was so well acquainted) hearing, seeing, or knowing the least of this that past between him and me. I therefore desired my lord to ask him, whether I spake of confession or communion? or what I said to him when I gave it him? or whether I told him I would give him the sacrament? which when the judge had asked him, he answered, that indeed I never had spoken to him either about confession or communion to come to either; neither did he know what I said to him, when I gave him bread like a wafer; but he of his own accord did desire me to hear his confession, and give him the wafer which he took.—Whereupon the judge asked how it came to pass that he, never having known nor seen me before, nor I spoke with him about confession or communion, how could he now tell who I was, or how could he desire such a thing of me who was a mere stranger to him, neither of us knowing any thing of one another's condition; sure, said the judge, we do not give the communion on such terms.—To which he answered, that his father had told him that if he would he might confess to me, and that I would give him the communion.—So although he had sworn before, that none in the house was witness or saw him confess or re-

seive, yet rather than be confounded, he would bring his father into confusion, and accuse him as guilty of being the cause of what he did, which might be the ruin of his family.

But the judge taking no notice of what he had accused his father, spake to me, and told me, by this it might appear, that I had taken upon me what belonged to the priests office, by hearing his confession, and giving him the wafer. To which I replied, that with his leave, I would make it appear, that all which this witness had said against me, did not at all prove me to be a priest, or to have taken the office of a priest upon me: for all he said I had done, I might do it lawfully though no priest, so might other men that never were nor would be priests do the same, as many thousands had done and did do through the world. He asked me how I could prove that? I answered, as to his confession he spoke of, in the nature he declared it, it was only an act of charity for me to do as I did, and every christian's duty obliges every man to do the same that he said I had done for him, and the same was practised by all sects whatsoever, that never knew what belonged to priesthood; For, if our neighbour have any thing that perplexed his mind, there is no better way to ease it, than by speaking of it to any whom he supposed might know how to take away or mitigate his grievances by counsel or advice; And therefore this witness having understood something from his father, that might move him to confide in me, came of his own accord, as he said he did, to impart his mind to me, and therefore I should not have fulfilled christian duty, if I should have slighted his trouble, and not have given him leave to ease his mind to me, and, in the best way I could, endeavour to assist him, and divert his trouble, though I was a stranger, being that he of his own accord, as he said, came to me for that intent, and therefore I desired the judge to ask him, if it were otherwise than what I had told his lordship?

The judge replied that I went further; for, as he says, I give him the wafer or communion. I answered, that suppose I had given him the wafer or communion (which whether I did or no I was not certain) yet according to his own word, this could no way prove that I gave him the sacrament; for, let him speak if I told him it was so; or let him declare if I said any thing to him concerning the communion, or what I said; he could not say I did, only I gave him something; therefore I told the judge, that if he pleased to give me leave, I would tell his lordship what practice ever had been, and is constantly used in the catholic church throughout the world, in giving hallowed bread or wafer, which is nothing belonging to the communion or sacrament; for I told my lord, as there was holy water kept in all private houses, as well as in the chapels, and places of prayer, so there was also holy bread, and, sometimes of the same nature as the wafer or the communion, and of this as well as of the other sort of bread, was on Sundays, and other certain

days not consecrated as the communion, but only blessed as holy water by the word and prayer, and so distributed to men, women, and little children, of two or three years old; and such like hallowed bread thousands of men, women and children, take, and may carry about them, and keep in their houses, and eat it at any time, and give it when, and to whom they would, to children, or others; and for my part, I have many times in my life taken it from others at any time; when I had it, or was in any private house where I found it, I have taken it to eat myself, and given it to any man, woman, or child, sometime they desiring it, sometime of my own accord I gave it, and so possibly I have given it to the man that witnesseth here against me; and if he know the contrary, but that it was as I said, I desire that he would speak: But he had nothing to say of me to the contrary.

I appealed to my lord to judge whether this testimony, or any other testimony this witness brought against me, were of any force or value to make me guilty in this matter, which no ways could be made out against me.

I proceeded therefore to answer his third accusation against me, which was, that I should have told him, that if he did not return to the faith from whence he had fallen, he would be damned. To this my answer to my lord was, that I had all my life time been so fearful of such rash judgment, that I do declare it in the presence of God, as I did before him, that I had rather dye, than presume to pronounce the sentence of damnation against any man; but I told his lordship, that if he pleased to give me leave, I would relate what I had said to him, and others, upon the like occasion, which the judge being willing to hear, I told him, that I being at this man's mother in law's house, who was of no religion, no more than this witness, and the mother desiring to hear what catholics held, and the reasons for which we believe such points of faith, I told her what we held, and shewed her the proofs for what we held in her own Bible, and when she made any difficulty whether such texts of scripture were to be understood as we understood them, or in any other sense, I shewed her out of the Protestant Practice of Piety, and out of the Protestant Common Prayer Book, that not only catholics, but all protestants understood them in such a sense; and she having those books by her, I turned those places to her to read in her own books, and so she did, and yet neither the Bible, nor Common Prayer Books, nor Practice of Piety could satisfy, or make her believe; whereupon I told her, that if she were a christian, she must believe something; for, as she believed, so she should be saved:—I told her also what the Bible declared to her, that without faith it was impossible to please God, and I bade her consider the text that saith, whatsoever is not of faith is sin; as also the text that saith, the just man liveth by faith, and desired her to read those words of our Saviour, where he saith he that believeth shall be saved, but he that

believeth not shall be damned; which she did read; and this witness being then present, and I saying the same then before him, I suppose, from this text, he accused me that I should say, he would be damned, because I repeated, and shewed them our Saviours words, as they appear in that place of Scripture.

I having thus answered all the testimonies this witness could bring in against me, I referred myself to his lordship, and all the bench to judge whether any thing this witness had said against me, would make me guilty: the judge said but little to it, but called for the next witness (who was father to this first) who was so much grieved at the proceedings of his ungracious son that he could not forbear to shed tears all the time that his son produced such accusations against me; so that he appeared more witness against his son's ungodliness, than a witness against me: yet the judge asked him many questions, whether he had ever heard, seen, or known any such or such things of or from me: to all which questions he answered no, he knew nothing against me; so that the judge seeing he shewed so much kindness, he asked him what he was? He answered, a catholic; whereupon the judge bade him go away, saying, he was too much my friend, and therefore he would not accept of him as a witness, but called the third. This witness was an old man, and very deaf, who was forced to come against me by a warrant, swore against his will: the judge asked him several questions, whether he heard me say any prayers; he answered, yes, but he could not well understand or hear what they were, because he was so deaf; he asked them whether they were English or Latin? he answered, he could not well tell, he thought it was both; and I think, it might be neither, for ought he could hear, he was so very deaf: then he asked him what cloaths I had on? he answered, he could not well tell; I had something on that was white, a surplice he thought; and the judge was willing to suppose this to be a priest's habit at mass, or when he gave the sacrament; but I told his lordship, that this could be no proof of any such matter, because, all over the world, among Catholics, such garments were worn by thousands in time of prayer, who never were, nor will be priests, as is well known to those that have been travellers: and I told his lordship, that if he pleased to call for them there may be several travellers, of several sects and opinions present in the hall, that would be sufficient witnesses as well of this, as of the holy bread and water, which the other witness as well as this old man said I had given them, which they suppose to be the sacrament; but the judge would call for none, but called for the fourth witness.—This witness was a young woman, who was also by violence forced to come and swear what she had heard, seen or known concerning me about the matter in question. The judge asked her whether I had taught her any thing, whether she had been at confession or communion, what I said to her, what penance I gave her; and he asked also

the like questions of the old man, the former witness, to all which they were both very unwilling to answer; for which some of the rude people curst the old man for an old doating fellow, and were as much vexed at the young woman, because she was so dejected, that she could not speak, but looked like one that was half dead, as some of the people said in anger she was so. The judge perceiving in what condition she was, said aloud, What men are these priests that have such power over people, that they are not able to speak against them; he therefore bid them remember they were in the presence of God, and were bound in conscience to speak the truth of what they had heard or seen; so at last they owned that I had read in the bible, and other books to them, and that they had confest what troubled them, and had received something like a wafer from me, and that they had believed what I had read to them; yet they both declared publicly, that I did not bid them come to confession, or take the wafer or bread; and when they took it that I did not tell them it was the sacrament, neither did they know whether it was or no: by all which it appeared according to the letter of the law, and in conscience, that none of these testimonies were of sufficient force to make me guilty. A man's life is not to be taken away upon surmises, or possibilities, that this might be the communion, as well as other holy bread: For the law requires, that it must be proved that there was an administration of the sacrament by one that had taken orders from a foreign power; of taking orders there was not the least accusation mentioned against me by any of the witnesses, much less could it be proved, no not so much that I pretended to give the sacrament any more than it might be holy water, or holy bread, as I desired my lord to consider; neither was it the wearing of a surplice that could prove I said mass; for priests never wear surplices at mass: and if a man's wearing a surplice at prayer, prove him a priest, then all the singing-boys in every Protestant Cathedral Church, and in all other churches in christendom, all those boys, though but of ten or twelve years of age, must be by consequence all popish priests; and all Jews who constantly in synagogues put on a white garment like a surplice, as I and all travellers have seen them do when we have gone to see them pray: all these Jews must be Romish Priests.—Out of all which it evidently appears that none of these testimonies the witnesses brought against me, were any way concluding according to justice to make me guilty of being a priest.

As for my reading the bible to them, or in satisfying them in what they doubted, or bidding them say their prayers, and particularly the Lord's prayer, which the last two witnesses told the judge I had done, and the like (he fearing to answer to all the questions he asked them) to these I answered, that I own I had done so; whereupon the judge said, that out of this it appeared, that I had taken upon me the priest's office. I told him, that with his leave I would

shew how it did no ways follow; for, out of this it only followed, that I had done the duty of a good christian, and every man in the like circumstances is bound as a christian to do the like that I had done. I told him, that they, doubting of such things, and desiring me to shew them if such places were in the bible, or not, and desiring to know what I did believe of those points, and the reasons why I believed them, I turned to such places in the bible, and read it to them, and bid them read the same themselves, which they did, and so were satisfied. And I told my Lord, for what I had done I had the scripture warrant, and scripture command also to do it, and so had every christian command to do the like; for the scripture commands all to be ready to give an answer to every man concerning the reason of the hope which is within us, and this I had done to them, or to any other that had asked me as they did. But I told my Lord withal, that I knowing the statute of persuasion, had always so much regard to that, when any would discourse with me concerning my faith, or their's, I told them, that (being there was such a statute as the statute of persuasion) though I was bound to give them an account of my faith and hope, if for conscience sake they asked me, yet I told them I would not incur the penalty of that statute by using any force or persuasion against their consciences; for violent forcing of consciences was against the law of God; yet I told them what I did believe, and shewed them the places of scripture on which my faith was grounded, according as they desired me to do for them, and then I would leave it to God and their own consciences; and if they did not believe those texts, I had no more to say to them; and if they did believe them, they best knew before God and their consciences what they had to do; so that it was not my persuasion, but God and their souls salvation that was to determine them in the belief of what they read in the bible; and I bade them bear witness that I told them thus, if in case we should ever be called in question before any judge; and thus I have discoursed, as several would bear witness for me. I told his lordship this was true, and so did those witnesses; for, they declared publicly what I said was true, whereupon I did appeal to my lord, if I was not innocent in this point; and as for my bidding them say their prayers, or when they desired to ease their minds by declaring what troubled them, I desired to clear myself by asking my lord, with his leave, what nation or sect in the world ought not, and did not counsel and wish their neighbours in their troubles to ease themselves by prayer to God; and much more every good christian ought, when he understood that his brother had acted the prodigal son, offended his Heavenly Father, and therefore was troubled in conscience, ought, I say, to persuade him to return by repentance, and beg mercy of our Father which is in heaven: I having done no more but this, have only done a pious christian duty to my neighbours, which any man, though

no priest, may and ought to do the same. I having pleaded these things for myself, the judge was pleased to tell me, I had a nimble tongue, and wit, and that by those discourses I strove to make the jury attend more to my pleading for myself, than to the witnesses arguments against me: to which I replied, I spoke nothing but truth, which I ought to do to defend myself against my enemies, therefore I hoped his lordship would not be offended: but if I have exceeded (as his lordship said I did) because I hindered him from speaking, I humbly craved his pardon, and hoped I should obtain it, being my concerns and reasons to plead, as I did, were of no less consequence than life and death.

But for all this the judge told the jury, that they were to consider the accusations of the witnesses against me, as having done such and such things which priests use to do; neither was it necessary that the witnesses should prove me to have taken orders from foreign power, and so to prove me positively to be a priest; for that (they not having seen me take orders) they could not do, but it was sufficient they had seen me do such things, by which it might be presumed it was so. Whereupon I answered, that there was never a proof yet alledged, that did or could make that appear or be sufficient to conclude me to be so, and therefore I was no more guilty than many thousands, of whom all these things alledged against me might be verified, who never were nor would be priests, as I had sufficiently shewed, why therefore should they be thought sufficient to conclude against me. I therefore desired the judge, before he sent out the jury, he would give me leave to speak a word or two to them. He answered no, he would not. I then desired his lordship would give me leave to speak again to him before them, ere they went out; to which he assented: I therefore desired his lordship to give me leave to ask this question of him, which the jury might hear. Suppose all the proofs which had been by all the witnesses brought against me, were to be alledged against the jury, or some of them, so that if the arguments were judged by them to be of force or concluding, some of those of the jury should lose part of their estates and credit, and being in some danger of their lives, who of all the jury on whom this peril were like to fall, would judge those arguments alledged against me, sufficient to condemn them to the loss of part of their estates, or part of their credit with some danger of their lives? I therefore desired it might be considered, that my all lay at stake, all my concerns in the world; credit and life not only in some danger, but certainly to be condemned, if those arguments brought in by them against me should be judged to be of force. Therefore I desired they would deal by me as if it were their own case, according as I had proposed it to them, and so I should give no further trouble in speaking, being it was not judged fit I should say any more (as I had desired) to the jury.

I had only one favour more to beg of the

judge before they went out, which was, that his lordship would read a paper before them which I had ready, whereby I could prove, that the first and chiefest witness against me, which was Rogers, ought not in justice to be admitted as a competent witness against me, as the writing I offered the judge would shew; which writing I gave to the judge, and he read it over privately to himself, and seeing the hand of him that wrote it at the bottom, who offered to swear for me against Rogers, the judge asked where this witness for me was, and why I had him not ready? I answered he was hard by in the prison for debt, if he pleased to send for him; but the judge would not send for him. I then desired the judge that at least I or any else here present, might read my paper publicly, that all might know it was true, that I had such a sufficient witness for me against Rogers; but the judge neither would let me, nor any else read it openly, but however I made bold to tell publicly all the contents of the paper, which were word for word as the witness wrote it with his own hand and name at the bottom; thus—

“Memorandum, That upon the 12th of December last past, or thereabouts, came three men to the castle of Worcester, and as they came up the stairs, Rogers desires one of them to call for one Mr. Johnson, and see if he would answer to that name or not; and entering into the room, he asked where was Mr. Johnson, and which was he, though he was at that time present in the room, and none else but one man and myself drinking at the door, and in my conscience knew him not.

(In witness to this I will lay down my oath.)
HENRY HOLLAND.”

By this it may appear, that if the judge would let my witness appear to have sworn, I might have cast Rogers, the chief witness against me; and why it was not granted, let all that hear it judge. However, I still continued to plead, that all proofs alledged against me were insufficient, which I can make appear even in the judge's own opinion, though I did not tell him so; for you must know, that before in his circuit, though witnesses swore against a gentleman (whom they would have proved a priest) that they saw him marry people and baptize, which are the actions of a priest, yet the judge declared, that because these actions might be done by such as were no priests, as well as by priests, as it appeared, because justices of the peace married people in Cromwell's time, and any man or woman might at some times christen children; therefore such common actions, as he declared, could not prove the accused gentleman to be a priest for doing them, and thereupon the judge freed him.

Whereupon I infer, That all the actions the witnesses swear they saw me do, as wearing a surplice, giving the wafer, exhorting to prayer, shewing points out of the Bible, hearing others grievances, which they of themselves declared

to me, and the like, being these are things done as well by those that were no priests, as by priests; according to the judge's own opinion, these actions ought not to have been judged sufficient proofs against me, no more than such actions were judged sufficient against other gentlemen; although I did not alledge this to the judge, yet it was sufficient he knew it, and might, if he had pleased, done with me accordingly, though he did not, but sending the jury out, sent me from the bar.

I being afterward called again to the bar, and it being declared unto me, that the jury had found me guilty, the bill was read against me; and then I was asked what I had to say for myself, why I should not die, that I might speak before the sentence of death past against me. To which I answered, I only desired to know for what I was to die; for I have shewed that all things alledged against me heretofore, were insufficient to prove me a priest, or take away my life.

The judge answered, That the jury had found me guilty, and that now there was no more to be said concerning the proof, but that I was to be condemned as a priest.

To which I replied, That though the jury had found me Guilty, yet I was still innocent from any guilt of death, and with his lordship's permission I would prove it. He asked me how? I answered, thus; I had not been out of England, to take any orders from foreign power since the king's restoration to his crown, neither had I any opportunity to take any orders in England; therefore if I were a priest, I was so before his majesty came into England: but whatever I had done before the king came into England, cannot make me now Guilty, supposing I had transgressed the law before, because his majesty before his return, put out several proclamations, that none should ever be troubled for their religion, or conscience-sake; and since his coming into England, he had done the same by several proclamations: and what was yet more, not long since, had set forth his declaration, that every one should freely practise his own religion of what sect or persuasion soever, which declaration, if I were a priest, I might safely rely on, as well as all others. To which the judge replied, where had I the seal to that declaration? I answered, I never questioned but that a subject might take his king's word declared in his public proclamation without his seal. The judge answered, However if I were a priest now in England, I was guilty. I replied, That supposing I had formerly taken orders before the king came to England, I could not altogether degrade myself, or be otherwise now, than what I was ordained then; therefore if I were a priest, I cannot now be guilty for it, because all that ever was done before the king's restoration, in what respect soever, was all forgiven and blotted out by the king's general pardon to all subjects, even to those who had a hand in the death of his royal Father, and so the Catholics for their religion were not excluded out

of the general pardon; wherefore I told his lordship I was not guilty.

Whereupon he told me I was guilty, and presumed far to plead so resolutely, and with such confidence before him and all the Bench.

I craved his pardon for my fault, but desired his lordship to consider, that I was bid speak if I had any thing to say for myself, before the sentence of death past against me, and therefore I had reason to plead home, since this was the last time I was like to speak for my life in this world, which I hope his lordship and the bench would consider; but if notwithstanding so many proclamations, grants for liberty of conscience, and his majesty's general pardon to all who had relied on them, if all this would not secure me, but my believing those things had caused me to err, and my error must cause me to lose my life, I had no more to say.

So the judge sat down, and pronounced against me the sentence of death, That I should be drawn, hanged, and quartered, disbowelled, my intrails burnt, my head cut off, my body to be cut in four quarters, and my quarters to be at the king's disposal.

Which sentence being pronounced, I bowed, and said aloud, Thanks be to God, God save the king; and I beseech God to bless your lordship, and all this honourable Bench.

The judge replied, You have spoken very well, I do not intend you shall die, at least not for the present, until I know the king's further pleasure.

I was not, I thank God for it, troubled with any disturbing thoughts either against the judge for his sentence, nor the jury that gave in such a verdict, nor against any of the witnesses; for I was then of the same mind, as by God's grace I ever shall be, esteeming them all the best friends to me in all they did or said that ever I had in my life, or ever shall have, except upon the like occasion. And I was, I thank God, so present with myself, whilst the judge pronounced the sentence to deliver me to death, that without any concern for any thing in this world, I did actually at the same time offer myself and the world to God.

After the judge was gone from the bench to the other end of the hall, I stayed with the keeper in the hall, where several Protestant gentlemen, and others, who had heard my trial, came to me, though strangers, and told me how sorry they were for me. To whom, with thanks, I replied, that I was troubled they should grieve for me, or my condition, who was joyful for it myself; for I told them I had professed this faith and religion all my life-time, which I was as sure to be true, as I was sure of the truth of God's word on which it was grounded, and therefore in it I deposed my soul, and eternal life and happiness; and therefore should I fear to lose my temporal life for this faith, whereon my eternal life depends, I were worse than an infidel; and whosoever should prefer the life of their bodies before their faith, their religion, or conscience, they were worse than heathens. For my own part

I told them, I was as ready by God's grace to die to-morrow, as I had been to receive the sentence of death to day, and as willingly as if I had a grant of the greatest dukedom: so we sate talking half an hour, and I returned to the prison, there to remain, as long as it pleased God and the king, whom God long preserve in all happiness.

There was another objection which I forgot to put in, until I had finished the former writing, and it was an objection which the judge was pleased to put against me himself, and it was that I had changed my name, and went in several places by several names.

To which I answered, the reason was, because in Cromwell's time, in the great troubles, our family suffered much, my father was imprisoned and a fellow prisoner with sir Thomas Ashton, both confined together, which sir Thomas is now one of his majesty's admirals of the fleet: And for my own part, I going beyond sea to travel, I changed my name; and then coming into England again before the king's restoration, I was glad to conceal myself, and go by several names, as many others of the king's loyal subjects did, the better to be able to do his majesty the best service I could, which according to my small ability, I did endeavour both before and since the king came into England, like a dutiful subject, and like the rest of our family who all endeavoured to serve his majesty: for I have two brothers served him, the one a volunteer at sea in sir William Reeves ship, which sir William was killed in the last engagement with the Dutch; and the other brother had a command under his royal highness the duke of York at land: therefore I hope the changing of my name on such an occasion as I did, could not be imputed as a guilt upon me, nor speak me other than a dutiful subject; which I could have made further appear before the bench, but I did not judge it convenient to say any more to the judge there in public. But before his lordship went out of Worcester, I presented him with a petition, to acquaint his lordship, that I having had the honour to kiss his majesty's hand, before his restoration, in the Low-Countries; as also I have had the honour to be one of those whom his majesty was pleased to grace with being entertained by us, his then best subjects; his majesty was pleased to make us a gracious promise, that when it should please God to restore him to his crown, we should not live so in banishment as then we did. Of this in my petition I did acquaint the judge, and beseeched him that he would be pleased, by declaring this to the king, to endeavour to obtain some gracious favour from his majesty for me, my condition now being such, that I could never have greater need to be partaker of his gracious promise and clemency.

The judge promised me he would make an address to his majesty for me in this behalf, which whether he hath done or no, I wish some body may put him in mind to do it for me. I do not here mention the place where in parti-

cular, nor the other persons to whom his majesty made that promise, if you remember, you know I did tell you, with several other particular circumstances, which I need not here make any further mention of.

The Last SPEECH of Mr. FRANCIS JOHNSON, Priest, of the order of St. Francis, who was executed (as a Priest only) at Worcester, upon the 22d of August, A. D. 1679. Which he spake, for the most part upon the ladder, immediately before his execution, (but being interrupted) and that which he did speak, being taken by an unskilful scribe, was printed by the halves, and so imperfect, that it was in some places nonsense. To correct that abuse this which he spake is published by a friend.

Almighty God, out of his infinite goodness to this world, through the merits of his Son Christ Jesus, ordained or made choice of three virtues whereby we must walk, which are these, viz. Faith, Hope, and Charity. First, by virtue of faith, we are to believe all things that are done in this world; Secondly, by virtue of Hope, we are to believe and hope for all things in another world. And the reason why Christians do believe this hope, is to bring and conduct them to salvation in the other world. And if we hope in God, we cannot but believe God: for with the mouth confession is made, but with the heart (and through faith) we must believe unto salvation; so that faith is not to be trodden under foot, or to be hid under a bushel, but to be set upon a candlestick, Luke 12. 'Whosoever doth confess me before men, him will I confess before the angels of God;' and therefore all are bound to believe that there is but one faith; and if but one faith, then but one christian faith. There is but one faith, one Lord, one baptism; if it be so, how can this stand with so many sectaries as there are? If there be but one faith, how can this be?

I believe the creed of St. Athanasius, (which is in your common prayer-book), there it is said, 'that whosoever will be saved, it is necessary before all things that he hold the Catholic faith; and that if he keep not that faith whole and undefiled, he shall perish everlastingly.' And as St. James saith, Jam. ii. 10. 'He that keepeth the whole law, and yet offendeth in one point is guilty of all;' so they that believe, must be all of the same faith. And that this ought to be done, I appeal to all the saints that are gone before, of whom it is said, 'that their faith was such, as by it they stopt the mouths of lions, they turned the edge of the sword, and caused the fire to cease that it should not burn; so they were oppressed they wandered about in sheeps-cloathing and goats cloathing,' Heb. xi. Therefore I say there must be an unity of faith.

I desire all Catholics to consider this, that it is better to be reviled by man now in this world, than be reviled by God in the world to come. Mat. xvi. it is said the Catholic church is built upon a rock. And Mat. xviii. he who

will not believe the church let him be as a heathen and publican.

This faith must be established so in every one, because Christ said, He would send the Holy Ghost, and he will shew us, or them, what to do. This is the rule of faith: This faith was published at Rome. And St. Paul writing to the Christians there, rejoiceth that their faith was renowned in the whole world. 'Go ye therefore, baptizing all nations in the name of the Father.' And this is the faith I confess and believe in, and which I die for.

I come now to speak of the second virtue, which is hope. I hope I shall have such reward, 'that neither eye hath seen, nor ear heard, nor can it enter into the heart of man to conceive.' Those that have hope, shall be as Mount Sion, that shall not be removed; those that have firm hope, there is nothing can disturb them; as David saith, 'God is round about those that do hope in him, as the mountains are round about Hierusalem.'

I come to the third virtue, and that is charity. It is true, now this body of mine in this shipwreck is full of sin, but when that shipwreck is over, I shall come to inherit that rock that shall never fail. Now welcome shipwreck that makes the body suffer, but brings the soul to that haven which is joyful.

Now many there be that talk much of charity, few understand it, and fewer that practise it. This is the greatest virtue, 1 Cor. xiii. 'Though ye speak with tongues of men and angels, and have not charity, it availeth nothing.' So then we ought to have love and charity, or else it prevaileth nothing.

It is expected I should say something of the Plot. As to this, I shall declare two points of my faith.

First, I believe that all are bound to obey the king's laws.

Secondly, I do declare, that those that do break the law in word, or any action, or that do act any thing against his majesty's life, that is a sin unto damnation, as much as it was a sin in Judas to betray Christ.

An oath is a taking God to witness, and is as much as if he took his life and justice to stake. So that he who takes a false oath, is guilty of destroying the life of God and his justice, and of his own damnation. And if I were but guilty of this, I do declare, that all the sin of damnation would fall upon me, because I denied the truth, and so struck at God by my sin, in denying the truth; that is one damnation.

A second damnation is, that if any man know of an evil against his majesty, his kingdom and nation, and to hide and not discover it, he shall answer for those mischiefs that come thereby; so that a man would have made and committed as many sins, as there be men in England that had suffered.

A third damnation is to die in this lie and with this perjury in his mouth; whereby he loses heaven and all its enjoyments, and dies in greater sins than the devils themselves.

Fourthly, I should have been guilty of my own death; For that Judge Atkins offered me my life if I would confess what I knew of the Plot, which had I known, and not discovered, would have made me the cause of my own death, which would have been a fourth damnation.

I would have said more, but that I gave my speech to a friend to be printed.

Mr. Sheriff. I pray, Sir, speak on what you have to say, and none shall interrupt you.

Mr. Johnson. Now I have no more to do but to make my address to Almighty God, with all the powers of my soul, that I may have his mercy and pardon of my sins; and therefore I beg that all Catholics who join in union of this same faith, would make an address unto God for me, that we may receive pardon for our sins. I have nothing now but wishes left. I wish I may imitate David in his repentance, and 'that my eyes may run down with tears, 'because I have not kept God's law.' I wish with the prophet Jeremiah, that 'Rivers of 'waters may fall from my eyes, by reason of 'sin.' Lam. iii. 48.

But tears will not be proper for me at this time; I have kept myself from them, lest by shedding tears, some might say I was unwilling to die, or feared death: but instead of tears, I offer all the blood in my veins, and I wish every drop were an ocean, and I would offer it up to God. I wish I might become a man like David. I wish I had Mary Magdalen's penitential tears; I wish I had her arms to embrace the feet of mercy. I wish I had all the graces of saints and angels, I would offer them all to God for the remission of my sin. This is my desire, and this I wish for as much as is in me.

I offer first my life, and I beseech and desire of God to turn his face from my sins, but not from me. I offer up my life in satisfaction for my sins, and for the Catholic Cause. And I beg for those that be mine enemies in this my death, and I desire to have them forgiven, because I go to that world of happiness sooner than I should have gone. And I humbly beg pardon from God and the world: and this I beg for the merits and mercy of Jesus Christ.

I beseech God to bless his majesty, to give him a long life and a happy reign in this world, and in the world to come.

I beseech God to bless all my benefactors, and all my friends, and those that have been any way under my charge.

I beseech God to bless all Catholics and this nation, and his majesty's privy council, and grant that they may act no otherwise than what may be for the glory of God, who will bring to light and to judgment all both good and evil, Luke xii. So I beseech God that he will give them grace to serve him.

I beseech God to bless the parliament that is now in election, that they may determine nothing, but what they themselves do hope to be judged by at the last day.

I beseech God to bless all that suffer under

this persecution, and to turn this our captivity into joy; that they who now sow in tears, may reap in joy.

I beseech God to accept the death of my body and to receive my soul.

I have no more to say.

Mr. Sheriff. I give you no interruption; but only whereas you said, that you died for the faith, that is not so, you do not die for that, but because you, being his majesty's subject, received orders from the Church of Rome beyond the seas, and came again into England, contrary to the law.

Mr. Johnson. That was pardoned by the king's act of grace.

Mr. Sheriff. That act pardoned only crimes committed before the making of it, but not those done since, as your continuance in England was.

Mr. Johnson. I am sorry if I have given offence in any thing I have said; my reason for it was, because when I was sent for to the judges upon Sunday night, Judge Atkins told me, I died not for being concerned in the Plot, but for being a priest.

Mr. Sheriff. No, but for your continuance in England against the law, being a priest.

Mr. Johnson. God receive my soul.

Mr. Sheriff. Sir, you may take your own time, and you shall have no interruption; Sir, will you be pleased to have your own time?

Jailor. Sir, pray give the sign when you please to be turned off.

Mr. Johnson. I will give you no sign, do it when you will.

And so he was executed.

Mr. Johnson was of an honourable family in Norfolk, born to an estate of some hundreds per annum, all which he left for the sake of religion. His third brother's son now enjoys the estate.

Mr. JOHNSON'S SPEECH, which he delivered to his Friend to be printed (as he mentioned at the place of Execution.)

ADVERTISEMENT.—Mr. Johnson's Trial, and what he spoke at his Execution, being finished there came to the Printer's hands his Speech at large (of which his foregoing words are only the heads) as the Reader will see, and as Mr. Johnson also mentions, viz. (I would have said more, but that I gave my Speech to a friend to be printed) therefore his friend has now faithfully published it accordingly, being written by Mr. Johnson himself, as followeth:

God Almighty (honoured friends) having been pleased of his infinite mercy through the merits of our Saviour Jesus Christ, to bestow on all Christians the theological virtues of Faith, Hope and Charity, by virtue of faith all are to believe whatever God hath revealed to us in this world, and by hope all are to expect what he hath promised we shall receive in the world to come.

And because, where God bestows such a faith and hope, it is in order to bring all to a

true charity and love of him; for who can have faith to believe an infinite goodness in which he hopes, but he must love that infinite goodness in whom he hopes, which bestows on him such gifts? Therefore all ought to honour God, and shew their love to him by a due profession, and a due practice of this faith, this hope and this charity, otherwise they cannot be saved, because, as St. Paul saith, "With the heart it is believed to righteousness; but with the mouth confession is made to salvation," Rom. x. 10.

For those that will not shew their faith, which is a light not to be hid under a bushel, but to be set in a candlestick, to give light to all, such can never have neither true hope for themselves, nor true charity towards God, or their neighbour, nor God to them, because our Saviour saith, Luke xii. "He that confesseth me before men, him will the Son of Man confess before the angels of God; but he that denieth me before men" (as those do that act or swear against their conscience) "him will the Son of Man deny before the angels of God."

And as all are bound to confess him, and his faith; so likewise all are obliged to own and profess that this faith can be but one only faith, as we are taught, Ephes. iv. where St. Paul declares, "There is one Lord, one faith, one baptism, one God, even as you are called," saith he, "in one hope of your calling." This being most true, let every rational Christian, in his most retired thoughts, consider how this unity of faith, and this hope of our calling can stand with such multiplicity of sects and opinions, also divers one against the other, with which the nation now so abounds: For according to the text, a man may as well say, there are diversities of Gods, or diversities of Christs, as that there are diversities of faiths, because faith is nothing but the truth of one God, which truth or faith he hath revealed, which none can alter.

We are all therefore bound to believe alike, in one faith, and in one Holy Catholic Church, as our Creed teacheth us; we are all obliged to believe in one catholic faith, as the Creed of St. Athanasius in the Protestant Common Prayer Book declares, saying, "Whosoever will be saved, it is necessary before all things, that he believe in the catholic faith, which faith unless every one keep whole and undefiled, he shall without doubt perish everlastingly." All and every one are to keep this faith whole, because as it is writ, St. Jam. ii. v. 10. "Whosoever keeps the whole law, and yet offends in one point is guilty of all."

All are to keep the whole faith, because our Saviour saith, Matt. xvi. 15. "Go ye into the world, and preach the Gospel to every creature." All are to believe alike the whole faith of the Gospel, else they shall perish everlastingly; because our Saviour saith in the same place, v. 16. "He that believes shall be saved, but he that believeth not shall be damned." We all must keep the unity of the faith whole and undefiled, because our Saviour also saith, St. Matt. vi. 16.

"Heaven and earth shall pass, but one jot, or one tittle of the law shall in no wise pass, till all be fulfilled;" as well the law of faith, as the law of works.

In confirmation of this, I appeal to the faith, and works, and sufferings of all the saints from the beginning, who to keep their faith whole and entire, have made such profession and practice of it, and confirmed it by such works as are recorded in St. Paul, Heb. xi. where first he registers the faith and deeds of the believers in particular, and then in general, of what they did and suffered by virtue of their faith, as there you read; "By faith they stopped the mouths of lions; extinguished the force of the fire, repelled the edge of the sword; they were racked, they were tried by mockings and stripes; they were in chains and prisons, they were stoned, they were hewed, they were tempted, they died in the slaughter of the sword, they were so persecuted and impoverished, that they were fain to go about in sheep-skins, and goat skins, needy, in distress, afflicted, wandering in deserts, in mountains, in dens, and caves of the earth."

Dear catholics now in your present persecution, think of this, and be willing to follow these examples, that you, as in the same place it followeth, being appointed, as they were by the testimony of your faith, may receive, ere long, those better things which God, as it is there writ, provides for you: Happy those that have this faith, but thrice more happy those that suffer these persecutions for faith's sake, because by this faith, as St. Paul saith, Gal. iii. 11. "The just man lives, and those that have not this faith, are dead to God," because, as it is written, Heb. xi. 6. "Without faith it is impossible to please God;" and yet though we have this faith, except we join, when God requires, our works of sufferings to this faith, both we and our faith are dead to God, because, as St. James saith, chap. ii. ver. 17. "Faith is to be shewed by works, because faith without works is dead." And he further shews us in his first chap. v. 25. "It is the works make a man happy, although there can be no good work without a firm faith in nothing doubting," as he saith, ver. 6.

Christian faith is a firm, established, and an infallible faith, because it is grounded upon a rock, against which the gates of hell shall not prevail, Matth. xvi. v. 18. This faith is as firmly established by such authority of God and his church, that he that will not own the authority, is as a heathen and a publican; God hath declared him so; and what the church binds on earth, God binds in Heaven. This church and faith is firmly established, because our Saviour hath promised, that the Holy Ghost, the Spirit of truth should, teach the believers all truth, remain with them for ever; shew them things to come to be believed, and should cause the believers to remember all things which Christ had already taught, which you read in John, xiv. and xvi. chap.

This faith is firmly established, because it was

believed and published from the beginning, throughout the whole world, as St. Paul proclaims, Romans the first, where he speaks thus to all that be in Rome; "Beloved of God, called to be saints; first I thank my God through Jesus Christ for you all, that your faith is published throughout the whole world." Finally, this faith is established and infallibly confirmed, that it can never decay till the world's end, because our Saviour hath promised to be with the believers unto the world's end; Matth. xxviii. 19, 20. "Go ye therefore and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost, teaching them to observe all things whatsoever I have commanded you, and behold I am with you always even to the end of the world." Thus much briefly concerning my Christian faith in which I truly believe in all points infallible, and in confirmation of which one only faith and Catholic Church, I will and do lay down my life; and whosoever will as he ought consider the text that proves this faith and church of the living God, to be the pillar and ground of truth, as it is evident it is, 1 Tim. iii. 15, I question not but who I say considers this, will believe the same, our faith being assisted by our second divine virtue, which is our Christian hope.

This hope is that virtue which assures us, that for the reward of our faith, and the profession and due practice of it, as we ought, there are those heavenly gifts laid up for the Christian believers, which neither eye hath seen, nor ear hath heard, nor the heart of man can conceive or comprehend, as St. Paul declares; this hope gives such confidence, that death cannot overcome it, because, as the prophet saith, "Although he shall kill me, yet I will hope in him." Why then shall any fear to die for his faith, having this hope? It is for want of making due reflection and use of this hope that causes so many to be fearful to suffer, and makes them fly the field of persecution, and forsake the banners of their Christian faith, that all ought to fight under, and would still fight under, would they make use of the divine hope of God's promises, which are such, that as David saith, Psal. cxv. "That he that hopes or trusts in our Lord, shall be as mount Sion, which cannot be removed, but remain for ever." As the mountains, saith God by the mouth of David, are about Jerusalem; so the Lord is round about his people; that is, such as will place their hope in him, as the prophet did, and exhorts us to do the same, saying, Psal. cxxx. 5, 6. "My soul hath hoped in our Lord; from the morning watch, even until night, let Israel hope in our Lord;" that is, from the beginning of the day of our life, till the night of death; as well in the morning of prosperity, as in the evening of adversity; because it is also writ, God is my hope for ever; and whosoever can truly say with David, Psal. xxxi. 1. "In thee, O Lord, have I placed my hope," shall be assured of what there follows, not to be confounded for ever, because, as St. Paul saith, "Hope confoundeth not."

VOL. VII.

There is a contrary vice to this virtue, a worldly fear that brings all things to confusion; it makes worldlings swear, and forswear, and perjure; for which perjuries and false oaths, as the prophet saith, "Judgment springs up as hemlock in the furrows of the fields." And therefore Dr. Thorndick in his book of Just Weights and Measures, saith, "That co-action of oaths is the crying sin of this nation, to call down the wrath of God upon the kingdom."

What better remedy than to secure ourselves against all worldly fears, and these ensuing dangers, but by relying on the hope of future blessings, which God, if we fight and suffer for his sake, hath promised. God is the God of Hosts, and we fight under him, and if we trust in him we are happy, as David saith, Psal. lxxxiv. 5. "O Lord of Hosts, blessed is the man that trusts in thee, in whom to hope is to be secured;" and therefore David also saith, Psal. xci. "He shall cover thee with his feathers, and under his wing shalt thou hope, especially if we fight for our faith;" and therefore he adds in the same verse, "His truth shall be thy shield and buckler," if we will hope in him and his reward; for if we hope for our great wages, we shall easily undergo our little work: As for example, if we hope to drink of the torrent of pleasure, as God hath promised we shall in his kingdom, who will fear to taste now of the chalice of some small persecution? If we hope hereafter to be numbered amongst the sons of God, as he hath promised we shall, and have our lot among the saints: why should we now fear to be reviled of men, or be reputed ignominious, as our Saviour and his Apostles were? If they have, so will they do you also; the scholar is not above the master, nor the servant above his lord. If they called the master of the family Beelzebub, so will they do his servants; therefore we must with the Apostles rejoice, as you read in the Acts they did, "because they were accounted worthy to suffer contumely and reproaches." If contumely and reproach seem so hard for us to undergo now for a good cause, as is our conscience before a few enemies, what contumely must those undergo who for now acting against their conscience, shall undergo at the great judgment before God, angels, saints, devils, and all the damned in hell? If for our reproach now we hope that after a short sorrow, God will honour us so, as to wipe away with his own hand every tear from our eyes, as he promiseth in the Revelations he will; and that henceforth "there shall be neither grief, nor labour, nor pain," or the like; why should any now grieve either to see himself or others suffer? It will not last, this tempest will soon be over, and if now in this storm the small vessel of my body suffer shipwreck, or some others, the like vessels, if our souls can but carry off our goods of Faith, Hope, and Charity, all is very well; for as soon as the vessels of our bodies sink, our souls will come to shore at the Land of Promise, and we shall be secured in the rock which is Christ, and ever

3 C

remain safe in the eternal hills, where neither winds nor waves of persecution can ever reach to assault us: then welcome shipwreck, that sinks the vessel of the body, to bring the passengers and their goods so happily to the haven, the Heaven of bliss.

Let us therefore weigh these things in a prudential balance, and see which scale is the heaviest, of present fears, or future hopes; of present sufferings, or future glories. Let us remember our Saviour's words to his Apostles, 'You are those that remained with me in my temptations or trials;' for which, said he, their reward was, he disposed the kingdom of heaven to them; partners in suffering, partners in glories: which if well considered, we shall say with St. Paul, 'The sufferings of this present time are not condign, or of equality to the future glory which shall be revealed in us;' and we shall with his joyful spirit say, 2 Cor. iv. 17. 'Our light affliction, which is but for a moment, worketh in us a far more exceeding and eternal weight of glory.' It is a happy weight that lifts both sufferings and sufferers up as high as Heaven, to eternal crowns of which we are all assured of as a reward for our faith, if we will make good use of our christian hope; which that we may the better do, let us endeavour to help ourselves by the third and greatest virtue that follows our faith and hope, which is charity.

This is that greatest virtue of which all sorts of Christians speak much, understand little, and practise less; though without the practice of it, it is in vain for any to pretend to have a saving faith, or hope; For as St. Paul saith, 1 Cor. xiii. 'Though he speak with the tongues of men and angels, and have not charity, he is but as sounding brass;' and although he should know all mysteries, and have faith to remove mountains; and though he should have such hope, understand for reward, 'that he should give all to the poor, and deliver his body to burn, and yet not have charity, it profiteth nothing.' Charity, as he saith, ver. 7, 'suffereth all things, believeth all things, hopeth all things, beareth all things.'

Do all that pretend to charity do thus? If to speak with the tongues of angels without charity be nothing but vanity, what charity is there in those that speak with the tongues of detraction, scandal, slander, false-witness and perjuries against their neighbours? If those that give all to the poor may want charity, so that all which they give profits them nothing, what charity is there in those that take all from their neighbours, to force them to forsake their faith? If alms profit nothing without charity, can such injuries profit prosecutors, that take all away against charity? If a man may give his own body to burn, and yet be cold in charity, what charity is there to kill others bodies, take away their lives with ignominy and violence, because they will not kill their own souls, by acting against God and their conscience? If charity consist only in those that suffer all things, believe all things, hope all things, what charity

is there in those who will make their neighbour suffer all things of persecution, because they believe and hope according to their conscience, and profess their faith and hope as they are bound before God upon their salvation so to do?

It is certain, that though men may pretend persecution of others for God's sake, to reduce others to him, yet it is evident that for any kingdom to persecute any, merely for conscience-sake, is against the law of God; and therefore whilst they would seem so zealously to keep the first command, of loving God above all, and force others to conform to their opinions, they break the second command, because they do not love their neighbour as themselves, because they persecute them, and so they dash one commandment against the other, and so crack both commandments together: For wheresoever the second command is broke, by not loving our neighbour as ourselves, the first is broke with it, because did they love God above all, they would do better by their neighbour.

But I do not come here to beat down others pretence to charity; but endeavour to advance charity in myself and others; and the way to do this, is not to reckon what others have not done according to charity, but to call to mind what others have done to raise charity towards God and their neighbours.

We read in holy writ, that Moses love was so to God and his neighbour, that to repurchase a peace and charity betwixt God and the people after they had offended, he desired that his own name should rather be blotted out of the book of life, than that the people's name should not be put in, by obtaining forgiveness; and therefore he saith to God, 'Either spare the people, or blot me out of the book which thou hast writ.'

How superlative a motive is this, to move Christians to a perfect charity towards their neighbours; well may a Christian be willing to lay down his temporal life for good example sake, rather than offend God, and scandalize others by deserting his faith; since others could be willing to hazard their eternal lives, to reduce their neighbours to God by charity.

The like examples of love to God and his neighbours, we have in St. Paul, in his manifold expressions both towards God and men; first to God, as Rom. viii. where he makes this proclamation, 'Who shall' saith he, 'separate us from the charity of Christ? Shall tribulation, or distress, or persecution, or famine, or nakedness, or peril, or sword? As it is written, for thy sake we are killed all the day long, we are accounted as sheep to the slaughter.' He adds, 'I am certain that neither death nor life, nor angels, nor principalities, nor powers, nor things present nor things to come, nor height, nor depth, nor any other creature shall be able to separate us from the love of God which is in Christ Jesus our Lord.'

And for this charity in order to his neighbour, let what he suffered to serve them testify,

as he relates, 2 Cor. xi. by being in labours and stripes, in prison, in death, in scourgings, in shipwrecks, being day and night in the bottom of the sea, in perils, in weariness, in painfulness, in hunger, in thirst, in fasting, in cold, and weariness, besides what he suffered through his care of all churches, ver. 28, 29, where he saith, 'Who is weak, and I am not weak?' understand by compassion, as fellow-sufferer; 'Who is scandalized, and I burn not?' understand by zeal. Let those now consider this who never more rejoice than now, when they see their passive neighbours scandalized, and were never better content in their own apprehensions than now, when they behold us suffering though before God we are innocent. Were St. Paul on earth again, he would rather give himself for others, to ease them of their sufferings, according to his wonted charity exprest, 2 Cor. xii. 15. saying, 'I will very gladly spend and be spent for you;' and he would rejoice to suffer in charity for his neighbour, as he abundantly declares, Colos. ii. 4. saying, 'I rejoice in my sufferings for you,' and fill up that which is wanting of the passions or afflictions of Christ in my flesh for his body's sake, which is the church, and this example is given for us to do the like, and therefore he saith, 1 Cor. iv. 9. 'We are made a spectacle to the world, to angels, and to men; and therefore God forbid but some of us, if we be Christian men, should endeavour to imitate some of his examples, though we cannot all; For he ascended to so superlative a degree of charity towards his neighbour, that he declares to the world, that he could be a cast-away himself to save others; for thus he saith, Rom. ix. 3. 'I could wish myself were accursed from Christ for my brethren.'

Christians do not then henceforth so easily ruin your neighbours, neither in their lives, nor estates, or credits, by persecutions and scandals; the scripture holds forth no such doctrine, nor gives any such examples; but, as you see, the contrary; but if our persecutors will not imitate these examples, let us that are persecuted and suffer endeavour to imitate them, by choosing rather to lose all we can call our own in this world, and life also, rather than to break charity to God and our neighbour, either by denying or dissembling our faith, and scandalizing the church, or bearing false witness against ourselves, or our neighbours, to save our lives or fortunes, or enrich ourselves by false witness.

And if we will put in practice the virtues of faith, hope and charity I have spoke of, we ought to do it thus; what we profess by words, we must confirm by deeds and actions. Our profession of Catholic faith is this, I believe all divine revelations delivered to the prophets and apostles, proposed by the Catholic church in her general councils, or by her universal practice to be believed as an article of Catholic faith, knowing this to be our faith, the confirmation of this knowledge, or the practice of this by our deeds, is, as St. Paul teacheth, Ephes.

iii. 8. 'To esteem all worldly things as dirt, in respect of this eminent knowledge of Christ and his faith;' and therefore for my own part, I now being ready to leave all in the world, and my life in testimony of my Catholic faith, which I profess I desire and hope to manifest to all, I value my knowledge of Christ's faith, more than I value the universal world.

And as for my Christian hope I profess to have, the confirmation of it, or the practical part is to be fulfilled thus, being that we must, as St. Peter saith, 1 Pet. iii. 15. 'Be always ready to give an account to every one concerning the hope which is in us.' I have already by words expressed it, and by deed I express it thus; That whereas I do believe that God, as the scripture saith, kills, and brings to life again; carrieth down to the depth, and bringeth back again; so now I do by this my present execution, which I am now to undergo, willingly give my body to be mortified in death for my faith, hoping in God's infinite mercy he will restore my body and soul to eternal life; and I do willingly resign myself to be carried down to my grave, hoping by my Saviour's cross and passion, death and burial, he will raise me up again to a glorious resurrection.

And as for the confirmation of my charity, to shew by deeds, the love I owe to God and my neighbour, it hath pleased my Saviour by his own words to declare which is the best proof or practice of charity, where he saith, 'No man hath a greater charity, than he that lays down his life for his friend.' I therefore do willingly undergo this death I am to suffer now, to testify I love my friend, my neighbour as myself; whilst I undergo this death for myself and them, that seeing it is for the profession of my faith I die, they, whilst they live, may the more happily serve God in the same belief; and I testify, I love God above all, because I forsake the world and myself in death, rather than offend him by doing any thing against my conscience.

And forasmuch as for these many years I have had occasion by discoursing and reading the holy scriptures with others who desired to find out the true faith, I have by words declared what faith I did believe, and what faith they ought to believe; I now declare that for every point of faith that ever I believed myself, or read to others, or told them that they might believe as a point of faith; for all and every such points of faith, in confirmation of them, as well to myself as others, I here lay down my life; and omitting all other particular points, I believe obedience to our king to be a divine law, and that we are bound to obey his commands in temporal laws; and I believe it too a sin of damnation, for any subject of his to rebel against him, or his kingdom; and I believe it as certain a sin to damnation, for any subject to endeavour, either by thoughts, words, or deeds, to take away his life, or act any thing of that nature, either by himself, or any others, or other against his sacred majesty, as I believe it was a sin in Judas to damnation to betray

Christ. And I do declare upon my salvation that I never did, nor do know any Catholic, that ever was or is the least guilty, either by thought, word, or deed, by any plot or otherwise, to have any design or concurrence to kill his sacred majesty, or rebel against his kingdom, whom God long preserve with his subjects in all happiness in this world, and crown him in the world to come with eternal glory.

And now it remains, that with all the powers and forces of my soul, I make my address to God for mercy ere I appear before him for judgment; and you, dear friends, here present, who believe in one holy Catholic Church, and Communion of Saints, be pleased in charity to make the same address to God with me, and for me, that we may obtain true sorrow and repentance for all our sins, and a merciful forgiveness; and first let us wish from the bottom of our hearts, that we could express and make good our sorrow, as David did, Psal. cxix. 'Whilst rivers of waters run down our eyes like his, because we have not kept according to our faith God's commands;' for which had we that fountain of tears which the prophet wished for, we ought spend it all; we ought with Jeremy, Lam. iii. 48. 49. to weep till our eyes, as his, failed, and as his eye with tears afflicted, as he saith his heart, so ought ours to do, because we have made so ill use of that faith, hope, and charity, which God hath bestowed upon us.

But forasmuch as tears now at this present, and in these circumstances of rash censuring times, tears, I say, from me, might seem to some, either the off-spring of fear to die, which God forbid I should have in so good a cause as my religion; or lest others might judge my tears might fall by reason of some other guilt, of which I am free and innocent, I have endeavoured to stop the course of tears, and instead of drops of water from my eyes, I will spend the drops of blood from every sorrowful vein of my heart, and my whole body, that God may please to wash away the sins of all my life past, and I wish each drop an ocean for myself and all the world; because I have nothing now left more than wishes, which I beseech thee, O gracious God, of thy mercy to accept of; and if you will vouchsafe to accept of wishes to supply the deeds, by wishes I offer up all that is good to you, that ever you gave to any since the world's creation; I offer up David's broken heart, together with my own, that so like him, after my repentance, I may become a man according to your own heart. I offer up the sighs of Magdalen, and wish I could make such use of them as she did to sob out my sins. I wish her repentant arms, that I may lay fast hold at the feet of thee my gracious God.

I wish I had the longanimity of all the holy confessors.

I wish I had the sufferings of all thy constant martyrs.

I wish I had the lamps of all thy sacred virgins, that I might offer all to thee that in them was pleasant in thy sight.

I wish I could offer up to thee, O God, the sacrifices of just Abel, Lot, Job, and all other sacrifices that ever did gratefully ascend up in thy sight; that thou being pleased by the sight of them, thou mightst look no more upon my sins: For if thou wilt observe iniquities, who shall endure? let therefore thy mercy hide thy face from my sins, but let not the rigour of thy justice cast me away from thy presence; cast me not away from thy face, and thy holy spirit take not from me, but turn away thy face from sin, and blot out all mine iniquities, and I will offer my body as a sacrifice to thee by death to appease thy just anger.

I own my sins, and I own your mercies. You gave me faith to know and believe what was the will of you my heavenly master, but I acknowledge my fault, that although I knew your will, I did not fulfil it, and therefore I ought to be beaten with many stripes, because you foretold me, that many are the stripes of a sinner; but be pleased, dear Lord, also to remember, that in the same place you promised that notwithstanding this, yet mercy should encompass him that hopes; you have given your divine hope, vouchsafe to let this hope defend me; and although I know I have not made good use of hope, and hope not well used, of which I am guilty, makes a sinner defer repentance, and so puts in danger to fall into presumption by long neglect, yet the last hour of calling being not yet past, and your mercy being above all your works, I hope and humbly beg to be partaker with those who were accepted at the last hour.

I humbly acknowledge with thanks, O gracious God, that you gave me charity as your livery, in which I always ought to have appeared in your sight, and never to have been divested of it; but how oft have I been spoiled, through my own fault, of this garment? how oft have I, by descending to Jericho, instead of going up to Jerusalem; how oft, I say, have I been robbed of this garment of charity? even as often as I have preferred any sublunary object, and the love of that before the love of you, and before your goodness, which is above all goodness, and the object of all beatitude.

Vouchsafe again, O gracious Lord, to restore in mercy to me this nuptial vestment, ere I dare appear at the supper of the Lamb. Make me, O heavenly Father, a penitential prodigal, and then I shall have put on me again this best robe of charity.

This I beg from the bottom of my soul for his dear sake, who was divested of his garments out of charity, that I might be invested in his charity, who also suffered his garments to be divided, that he might purchase grace, that we might never be divided from the unity of his faith and church, but rather willingly suffer for his sake the separation of our lives from our bodies, the separation of our bodies from our souls, and the separation of our bodies into its quarters, that we may the more perfectly by these sufferings and separations from ourselves be united to him.

Therefore in the faithful communion and perfect union of the sufferings of all saints that ever have been, or now are, or ever will be, in the union of the most sacred merits of the life, passions and death of God and man, my dear Redeemer and Saviour Christ, I offer myself willingly to what I am now to suffer, begging by all that is good in heaven and in earth, remissions of sins for myself and all the world, particularly for all that may appear to have been my enemies in the concern of my life, as witness, jury, judge, and others, whom I do not esteem as enemies, but as the best of friends; I heartily forgive them, and beg the best of blessings for them all, as being the cause of sending me sooner than otherwise I might have gone, to the happy state of hope for the other world. Whither, before I go, I humbly beg pardon of all in this world, for whatever in thoughts, words or deeds I have committed to offend them, or omitted to do for them, by which any thing might have been mended in them, or myself, I beseech God to bless them all.

I beseech God to bless also all my friends, spiritual and temporal; all benefactors; and all by whom I have received good or evil, by words, deeds, or desires.

I beseech God to bless all those of whom I ever had care or charge spiritually or temporally.

I beseech God bless his holy catholic church, and our chief bishop thereof, with all other bishops, priests and clergy.

I beseech God bless this nation, and unite all amongst themselves and to God, in true Faith, Hope and Charity.

I beseech God to bless his majesty's privy council, and make all the secrets of their hearts and their desires such, as that both Charles our king on earth, and God our great king in heaven and earth, may be served, pleased and honoured by them, that men and angels may rejoice at it now, and be public witness of it at the last great day, at the great and last council table, where 'every' secret shall be laid open,' Luke 12, as Solomon saith, Eccles. ult. 'when God will bring into judgment every secret thing, whether it be good or evil.'

I beseech God to bless the parliament now elect, and be so present with them when they sit to judge and discuss the causes of this nation, they may imitate the assembly of those that are to sit upon the twelve thrones at the last great assembly, that they may now judge or determinate of things no otherwise than they hope or fear then to be judged themselves, and determined of to all eternity.

I beseech God to bless all that suffer in this persecution, and let the blessing exprest in the 126th Psalm light upon them speedily, that God turning their captivity, all mouths may be filled with joys, and tongues with singings. Convert, O Lord, our captivity, as streams in the south, that those who now sow in tears, may reap in joy; and for this temporal death, O blessed Trinity, give me eternal life; let my body die to the world for the love of thee, that

my soul may live for ever, and love in thee my God and dear Redeemer, Amen. Sweet Jesus, Amen.

It appears from the following, that in the preceding month of July another priest had been executed at Chester.

"The Speech of Mr. WILLIAM PLESSINGTON, who was Executed at Chester (for being a Priest of the Church of Rome) July 19, 1679.

"Dear Countrymen; I am here to be executed, neither for theft, murder, nor any thing against the law of God, nor any fact or doctrine inconsistent with monarchy or civil government, I suppose several now present heard my trial the last Assizes, and can testify that nothing was laid to my charge but priest-hood, and I am sure that you will find that priest-hood is neither against the law of God nor monarchy, or civil government. If you will consult either the Old or New-Testament, (for it is the basis of religion) for no priest no religion, St. Paul tells us in Hebrews, the 7, and 12. The priest-hood being changed, there is made also of necessity a change of the law, and consequently the priest-hood being abolished, the law and religion is quite gone.—But I know it will be said, that a priest ordained by authority derived from the See of Rome, is by the law of the nation to die as a traitor, but if that be so what must become of all the clergy-men of the Church of England, for the first protestant bishops had their ordination from those of the Church of Rome, or none at all, as appears by their own writers, so that ordination comes derivatively to those now living.—As in the primitive times, Christians were esteemed traitors; and suffered as such by national laws, so are the priests of the Roman Church, here esteemed and suffer as such. But as Christianity then was not against the law of God, monarchy, or civil policy, so now there is not any one point of the Roman Catholic faith, (of which faith I am) that is inconsistent therewith, as is evident by induction in each several point.—That the pope hath power to depose or give license to murder princes, is no point of our belief. And I protest in the sight of God and the court of heaven, that I am absolutely innocent of the Plot so much discoursed of, and abhor such bloody and damnable designs, and although it be 9 weeks since I was sentenced to die, there is not any thing of that laid to my charge, so that I may well take comfort in St. Peter's words, 1 Pet. 14, 15, 16. 'Let none of you suffer as a murderer, or as a thief, or as an evil doer, or as a busy body in other men's matters, yet if any man suffer as a Christian let him not be ashamed or sorry.' I have deserved a worse death, for though I have been a faithful and true subject to my king, I have been a grievous sinner against God; thieves and robbers that rob on high-ways, would have served God in a greater perfection than I have

done, had they received so many favours and graces from him as I have.—But as there was never sinner who truly repented and heartily called to Jesus for mercy, to whom he did not shew mercy; so I hope by the merits of his passion, he will have mercy on me, who am heartily sorry that ever I offended him.—Bear witness good hearers, that I profess that I undoubtedly and firmly believe all the Articles of the Roman Catholic faith, and for the truth of any of them, (by the assistance of God) I am willing to die, and I had rather die than doubt of any point of faith, taught by our holy mother the Roman Catholic Church.—In what condition Margaret Plat one of the chiefest witnesses against me was before, and after she was with me, let her nearest relations declare.—George Massey, another witness swore falsely, when he swore, I gave him the Sacrament, and

said mass at the time and place he mentioned; and I verily think that he never spoke to me, or I to him, or saw each other but at the Assizes week; the third witness Robert Wood was suddenly killed, but of the dead why should I speak? These were all the witnesses against me, unless those that only declared what they heard from others. I heartily and freely forgive all that have been or are any way instrumental to my death, and heartily desire that those that are living may heartily repent.—God bless the king and the royal family, and grant his majesty a prosperous reign here and a crown of glory hereafter, God grant peace to the subjects, and that they live and die in true Faith, Hope, and Charity. That which remains is, that I recommend myself to the mercy of my Jesus by whose merits I hope for mercy, O Jesus be to me a Jesus."

258. The Trial of THOMAS KNOX and JOHN LANE, at the King's Bench, for a Misdemeanor:* 31 CHARLES II. A.D. 1679.

On Tuesday the 25th day of November, 1679, at the King's bench-bar at Westminster, Thomas Knox and John Lane were tried for the misdemeanor and offence hereinafter in the Indictment expressed; which trial was in manner following.

Proclamation being made in usual manner for information, and the defendants called to their challenges; the jury were sworn, whose names follow:

Sir John Kirk, Thomas Harriot, Henry Johnson, Simon Middleton, Hugh Squire, Francis Dorrington, John Roberts, Rainsford Waterhouse, Thomas Earsby, Joseph Radcliffe, James Supple, Richard Cooper.

Who being numbered, the clerk of the crown charged them with the indictment thus:

Cl. of Cr. Gentlemen, You of the jury that are sworn, hearken to your charge; you shall understand that the defendants stand indicted by the oaths of twelve honest and lawful men of the county of Middlesex, by the names of Thomas Knox of the parish of St. Margaret's,

Westminster, in the county of Middlesex, labourer, and John Lane of the same parish and county, labourer, for that whereas Edward Coleman, William Ireland, and John Grove, and other false traitors against our sovereign lord Charles 2. by the grace of God of England, Scotland, France, and Ireland, king, defender of the faith, &c. to the jurors aforesaid unknown, the 24th day of April, in the 30th year of the reign of our said sovereign lord the king, at the parish of St. Margaret's, Westminster, in the county of Middlesex, traiterously amongst themselves had conspired, consulted, and agreed, to bring and put to death and destruction our said sovereign lord the king, and war against our said sovereign lord the king within this kingdom of England to stir up, and the religion in the said kingdom of England, rightly and by the laws of the said kingdom established, to the superstition of the Romish church to change and alter, and the government of the said kingdom of England to subvert; for which their said most wicked treasons, and traiterous conspiracies, consultations, and agreements, the said Edward Coleman, William Ireland, and John Grove, in due manner and according to the laws of this kingdom of England, were afterwards attainted, and underwent the pain of death for the same. And whereas William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel of Wardor, William lord Petre, and sir Henry Titchbourn, bart. the 30th day of November; in the 30th year of the reign of our said sovereign lord the king aforesaid, at the parish of St. Margaret's Westminster, aforesaid, in the county of Middlesex aforesaid, of the treasons aforesaid were lawfully accused, and thereupon, according to due form of law, were committed to the Tower of London, being the prison of our said sovereign Lord the king, there safely to be kept to answer for the trea-

* Published in the next year, under the title of "The Trial and Conviction of Thomas Knox and John Lane, for a Conspiracy to defame and scandalize Dr. Oates and Mr. Bedloe; thereby to discredit their evidence about the Horrid Popish Plot: at the King's-Bench-bar at Westminster, on Tuesday the 25th of November, 1679. Before the Right Hon. Sir William Scroggs, knt. Lord Chief Justice, and the other Judges of that Court. Where, upon full evidence, they were found Guilty of the offence aforesaid. London: Printed for Robert Pawlett, at the Bible in Chancery lane, near Fleetstreet, 1680."

"I do appoint Robert Pawlett to print the Trial of Thomas Knox and John Lane, and let no other person presume to print the same." WILLIAM SCROGGS.

sons aforesaid; whereupon they the said William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel of Wardour, and William lord Petre, were in parliament impeached by the Commons in the same parliament assembled. And whereas Thomas earl of Danby afterwards to wit the said 30th day of November, in the 30th year aforesaid, at the parish aforesaid, in the county aforesaid, of certain treasons and other misdemeanors was lawfully accused, and thereupon, according to due form of law, was committed to the said Tower of London, there to be safely kept to answer for the treasons and misdemeanors aforesaid, of which said treasons and misdemeanors he the said Thomas earl of Danby is impeached in parliament, by the Commons in the same parliament assembled, that they the said Thomas Knox and John Lane, well knowing the said William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel of Wardour, William lord Petre, and Thomas earl of Danby, to be accused of the treasons and misdemeanors aforesaid; and they the said Thomas Knox and John Lane, being devilishly affected towards our said sovereign lord the king, their supreme and natural lord, and devising, and with all their strength intending the peace and tranquility of this kingdom of England to disturb, and to hinder and stifle the discovery of the said treasons, by the said William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel, and William lord Petre, as aforesaid supposed to be committed, and, as much as in them lay to elude the due course of law, and the prosecution of Justice against the said William earl of Powis, William viscount Stafford, William lord Petre, John lord Bellasis, sir Henry Tichbourn, and Thomas earl of Danby to retard, they the said Thomas Knox and John Lane, afterwards, to wit, the 30th day of April, in the 31st year of the reign of our said sovereign lord the king, at the parish aforesaid, in the county aforesaid, falsely, maliciously and unlawfully did consult and agree among themselves, Titus Oates clerk, and William Bedlow gentleman, who informations of the treasons aforesaid had given, and whom they the said Thomas Knox and John Lane, the day and year aforesaid, well knew to have given information of the treasons aforesaid against them the said William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel, and William lord Petre, to scandalize and upon the trial of the said William earl of Powis, William viscount Stafford, John lord Bellasis, Henry lord Arundel, and William lord Petre, to represent them to be persons of evil conversation, and witnesses not deserving credit. And that he the said Thomas Knox afterwards, to wit, the said 30th day of April, in the 31st year aforesaid, at the parish aforesaid, in the county aforesaid, in the names, and with the consent and agreement of the said John Lane, and one William Osborn, to disgrace the information of the said Titus Oates

and William Bedlow, against them the said William earl of Powis, William viscount Stafford, William lord Petre, John lord Bellasis, and Henry lord Arundel, for our said sovereign lord the king, to be given, falsely, maliciously, subtilly, and advisedly, did write and cause to be written three letters, and those letters, so written, falsely, craftily, unlawfully, and advisedly, did direct and cause to be delivered to himself the said Thomas Knox, by which said letters falsely, craftily, and deceitfully, it was declared, That they the said John Lane and William Osborn were greatly troubled in their consciences by reason of certain things which they well knew, and had concealed concerning the unjust contrivances of the said Titus Oates and William Bedlow, in accusing the said Thomas earl of Danby, to be guilty of the treasons and other misdemeanors aforesaid, and that the said Titus Oates was a person of a wicked and vicious life, and made an assault upon the said John Lane, and with the said John Lane to commit that detestable sin called sodomy before that time had endeavoured. And that he the said Thomas Knox, the sooner and more effectually to persuade the said John Lane and William Osborn falsely to accuse the said Titus Oates and William Bedlow, that they the said Titus Oates and William Bedlow unjustly, and against all truth, had accused the said Thomas earl of Danby, of the treasons and other misdemeanors aforesaid, and so to affirm against the evidence of our said sovereign lord the king, upon the trial of the said Thomas earl of Danby, for the treasons and other misdemeanors aforesaid, to be had afterwards, to wit, the said 30th day of April, in the 31st year of the reign of our said sovereign lord the king aforesaid, at the parish aforesaid, in the county aforesaid, falsely, advisedly, corruptly, and against the duty of his allegiance, unlawfully gave to the said John Lane and William Osborn, divers great sums of money, and also further falsely, advisedly, corruptly, and against the duty of his allegiance, the day and year aforesaid, at the parish aforesaid, in the county aforesaid, did promise unto the said John Lane and William Osborn, that they the said John Lane and William Osborn, within a certain time, by the said Thomas Knox to the said John Lane and William Osborn propounded, divers other great sums of money, and other great rewards therefore should have and receive, against the duty of their allegiance, to the great retarding, obstructing and suppressing of justice, in manifest contempt of the laws of this kingdom of England, to the evil and pernicious example of all others in the like case offending, and against the peace of our said sovereign lord the king, his crown and dignity. To this indictment, the said Thomas Knox and John Lane, by their attorney, pleaded that they are Not Guilty, nor either of them is Guilty of the offence aforesaid, and further withal put themselves upon the country, and the king's attorney likewise. And your charge is to enquire if they are Guilty or Not Guilty.?

Cl. of Cr. Make an O yes.

Crier. O yes ! if any one will give evidence on the behalf of our sovereign lord the king, against Thomas Knox and John Lane, of the misdemeanors and offence whereof they stand indicted, let them come forth and give their evidence.

Mr. Trenchard. May it please your lordship, and you gentlemen of the jury, Thomas Knox and John Lane stand indicted for a great and high misdemeanor, and the indictment sets forth, that whereas Coleman, Ireland, Pickering, and Grove, and other false traitors did conspire to destroy the king, and change the religion established by law, to levy war against our sovereign lord the king, and to introduce popery, and for these treasons were convicted, attainted, and executed ; and further sets forth, that the lord Powis, lord Arundel of Wardor, and others, were accused of the said treasons, and were committed to the Tower, and afterwards were impeached for the same by the Commons in parliament assembled ; as also that Thomas earl of Danby was impeached of high-treason and other misdemeanors ; that the defendants knowing Mr. Oates and Mr. Bedlow had given information of these treasons, to stifle the evidence, and to scandalize them, did falsly conspire to represent them as wicked persons, and men of no credit. And the indictment further sets forth, that the defendant Knox, with the agreement of Lane, and one Osborn, did cause several letters to be writ, in which it was contrived to accuse the said Oates and Bedlow, that they had conspired falsly to accuse the said earl of Danby, and that Oates was a person of a vicious conversation, and had a design to attempt an assault upon the person of the said Lane, with an intention to commit that detestable sin of sodomy ; the better to effect which wicked designs, the said Knox gave several sums of money to Osborn and Lane, and had offered great rewards unto them. To this indictment they have pleaded Not Guilty, and you are to try whether they are Guilty or Not, of this misdemeanor.

Then sir John Maynard, the king's eldest serjeant at law, pursued the charge thus :

Serj. Maynard. May it please your lordship, and you gentlemen of the jury ; this cause is of great consequence ; and, my lord, I desire the jury to observe, that their question this day is not to enquire whether the lords or the other persons accused and impeached in parliament are Guilty or Not ; but the question before them, is, Whether the persons that stand here indicted, are guilty of wicked and vile endeavours to discountenance and suppress the evidence, and scandalize their persons, who were to give evidence against these lords ; we are not to give evidence against the lords, but against these persons.

L. C. J. (Sir Wm. Scroggs) You are right, brother.

Serj. Maynard. Gentlemen, something I must observe to you, that is an inducement

to this matter : that there hath been an horrid and abominable conspiracy against the king, the nation, the religion, and the law, appears (my lord) by the proceedings in parliament, wherein the Lords and the Commons have several times jointly declared so, and I think, it is so public that no body will doubt there is such a thing ; who is guilty, that is another matter.

L. C. J. This court must take notice of that, because some have been tried, convicted, and condemned for it by this court.

Serj. Maynard. Your lordship says right. But my lord, the first discovery of this conspiracy came from a single person, one that stood single and discouraged a long time, and that there were endeavours to discourage his further discovery, that will appear. My lord, when it stood so, it happened that sir Edmundbury Godfrey had taken his examination, and these things will be material in the end of the cause.

Sir E. Godfrey having taken the examination of Oates, then the endeavour was to suppress this examination that he had taken, and that by no less a wickedness than the barbarous murder of that honest gentleman, whom you all knew ; and they not only took away his life, but they did strive to baffle and defame him, when he was dead, and that will appear too, and is public and known. My lord, all this while stood Oates single ; it fell out by the mercy of God, that a further discovery was made by Bedlow, he was examined, and it is publicly known, and public justice hath gone upon it.—The next attempt was to corrupt the testimony of Bedlow with bribes and rewards, and by other ways ; and the person that transacted it, Reading, is attainted of it, 'Scelere tutandum est scelus,' when men have invented and designed any great wickedness, they are forced to enter upon others to cover and conceal the former. My lord, it proceeded now, and comes to that which will be the question this day. Having gone all these ways, now they return again, to see if they can disgrace and baffle the evidence Oates and Bedlow had given, and the way to that is by disparaging and scandalizing them with foul offences, especially Dr. Oates ; and that was thus, (as we shall prove to your lordship) Lane had been a servant with Oates, and the other was one of the like condition, and he was tampered with to accuse Dr. Oates of that horrid sin of sodomy, and I think if he were such an one, little credit were to be given to such a man. This was the design they were to accomplish. And we shall prove to you, in order to it, there were letters written (and contrived by Knox indeed) written by Osborn who is not now before you, but a contrivance of them all. And, my lord, there must be a pretence ; for in truth these persons had been examined, and had charged him with this offence, but upon further examination they had renounced their discovery.

L. C. J. Had they all given evidence ? Or who did ?

Serj. Maynard. No, my lord, pardon me, I

am not speaking of their Evidence, but only of their Examination before the Lords.

L. C. J. What was it that was there witnessed?

Serj. Maynard. Then they pretended this matter, That they were touched in conscience, and now they repent, and must discover the truth for the truth's sake, that themselves were false in making of the charge, and this my lord, must be furthered with bribes and rewards, as we shall prove to you. We shall make out the particulars by witnesses, and then we think we may leave it to your lordship and the jury to determine. In truth, my lord, it happens in this case as it did long ago, when the first discovery was of a like design, and as is told by the historian; 'Multi ob stultitiam non putabant, multi ob ignorantiam non videbant, multi ob pravitatem non credebant, et non credendo conjurationem adjuvabant.'

Attorney General (sir Cr. Levinz). May it please your lordship, and you gentlemen of the jury: I am of counsel for the king in this cause, whose suit it is. The evidence hath been opened fully by Mr. Serjeant. I shall only say this, that this is a counter-part of Mr. Reading's Case, only it seems in this to differ, that the counter-part exceeds the original; for, I think, that it is of a further extent than his was. It hath been told you, by Mr. Serjeant, and, I know, the Court will tell you that it matters not whether those persons that are accused of the Plot, and impeached for it, were guilty or not, it is sufficient that they are accused, and that by these persons. For any body to endeavour to suppress and withdraw the king's evidence, or to disgrace the king's evidence, that is not lawful, be the crime what it will; but it is a much greater crime in a case of this nature of High-Treason, where the life of the king, the government of the kingdom, the religion, and the true worship of God established in it, and the laws of the nation are in danger. Some of these persons are guilty, for Mr. Coleman, and several others, have been found guilty, and have been executed for it.—The design in this case that lies before you, gentlemen, to try, was to throw a disparagement upon the testimony of those persons by whose evidence those traitors were principally attainted and executed. This is, gentlemen, to affront the justice of the nation, and indeed to cast a disparagement upon it; and that sure is as great an offence as can be; the matter of the evidence hath been opened to you, I shall only acquaint your lordship and the jury, that it hath been designed a great while, and so long designed, that one of the persons here accused, Mr. Lane, one of Oates's servants, had the opportunity to get into his master's secrets, thereby the more effectually to betray him, and as it will appear by witnesses, did carry on the design till it was discovered, and by that discovery prevented, as to any success.

Mr. Recorder (sir George Jefferies). Your lordship is pleased to observe in the indictment that is now to be tried, there are but two per-

sons that stand indicted, that is Lane and Knox. I presume the gentlemen that are on the other side for each of the prisoners (for I perceive those that are for the one, are not for the other) may expect that there should be proof made of what is laid as inducement in the indictment, and will not tend immediately to that which will be the question in this case: for there is recited in the indictment the conviction of Coleman in this place, and others in other places, for the high-treason the evidence whereof these persons are indicted for scandalizing, we have here the Records ready to prove it.

L. C. J. I suppose they will admit that.

Recorder. If they will not, we have that which will prove it.

Mr. Withins. My lord, we shall not stand upon that.

Sol. General (sir Fr. Winnington). We are ready, if you do.

Serj. Maynard. And you will admit that Dr. Oates and Mr. Bedlow were witnesses upon those trials?

Mr. Withins. Yes, and gave evidence very considerable.

Recorder. Then, my lord, we must hint to you, that Lane, who is one of the persons taken notice of in the indictment, was a servant to Dr. Oates; Knox was not in his service, but Knox is a man that made use of Lane as a handle to the matter he had designed; therefore letters are prepared; but by whom? That we shall give you an account of was by the direction of Knox, though the letters that will be produced, are directed to Knox himself.

L. C. J. Your indictment says so.

Recorder. But we shall give you an account, that he was director of those letters himself; but as your lordship may observe, there are not only letters, but some accusations or informations. We shall prove to your lordship whose hand-writing they were, and who dictated those informations: for I think that Mr. Knox is pretended to have the most brains; and I believe Mr. Knox, in the consequence, will appear to have the most malice. And we shall prove in the next place, that inasmuch as it would be natural in the course of justice to ask whether these persons should not have money for the reward of such a business; we shall prove that there were treaties with Mr. Lane, and one Mr. Osborn who is not indicted, (but was likewise a servant to Dr. Oates, and had thereby an opportunity of deceiving him) that they had meetings; how guineas have been cunningly dropped down, which was to prevent, as I was acquainting your lordship, any such question that should be asked, what monies and rewards they were to have for this great discovery of any wickedness that Mr. Oates should be guilty of. Mr. Knox, he prepares them in this manner. At every meeting, when they were discoursing and pursuing this business, then by some unlucky accident or other, Mr. Knox he is to drop a guinea or two, according as Mr. Lane and the other person

had occasion, or a desire to have it; but none were to be given, but as by accident, as if Knox holding his guineas in his hand, or in some other accidental way should drop them; and then Osborn and Lane were to pick them up in a kind of a jest only, as if Knox had accidentally let them fall, and they had as accidentally taken them up. How this came to be discovered, we must give you an account. Matters being thus prepared by the instigation of Knox, and transacted so far by Lane and Osborn, they thought it then fit to put their design in execution. Accordingly their informations are produced before a justice of peace, who finding the matters were improbable, (for I think they had some scrutiny before the Justice of Peace, and before the Lords' Committees of the Lords' House) one of them, gentlemen, though now he is pleased to say he is Not Guilty, yet at that time had a little more ingenuity, and did confess the whole matter, and how he was drawn in, and how far he was concerned, and how Mr. Knox had directed him, and the money and rewards he had received, and that besides, divers other sums of money had been promised, and great rewards offered in case this design had taken effect. We shall call our witnesses before your lordship, and give in evidence the informations that they had intended to offer; and if we shall prove the matters that have been opened to you, I believe the consequence of this case will appear as much to concern the government, as any that hath come to this bar.

Sir Fr. Winnington. My lord, if your lordship please, we shall now go to prove our case; the question was asked whether they would admit the several attainders of those persons that have been executed for this Plot. I now ask them, whether they will admit the several impeachments that are also mentioned in the indictment, both of the five lords in the Tower, and also of the lord Danby.

Mr. Withins and Mr. Scroggs. Yes, we do.

Justice Pemberton. All that they will allow.

Recorder. Then we begin with Mr. Radford. [Who was sworn.]

Att. Gen. What is your name, Sir?

Radford. Robert Radford.

Att. Gen. Come on, Mr. Radford, tell my lord and the jury what you know concerning this business, about Lane and Knox.

Radford. Sir, if it please your honour, R. Lane, father of John Lane, was a yeoman of the guard extraordinary, and I am one of his majesty's yeomen of the guard. As he was in waiting, he was telling me a story——

L. C. J. Richard was?

Radford. Yes, Richard the father was telling me that Dr. Oates did attempt his son many times to do such and such things to him, that was in the way of buggery; said I, Richard I am ashamed of you, that you should cherish your son in such things as these are; so I went away in anger, and told him, That if he were my son, I would correct him severely for it; and said no more, knowing him to be a lying

fellow; and all the whole guard know him to be a lying fellow, and that there is no truth in him.

L. C. J. All who?

Radford. All the guard; and that is all I can say.

Justice Jones. When was this?

Radford. Above a twelvemonth ago. And I knew that he was a lying man, and I durst not speak of it, because I knew he was so, and was afraid he would have put it upon me.

L. C. J. What, he told you that his son told him so?

Radford. No, he told me only that his son was weary of Dr. Oates's service; and I told him that he was come away once before, and why did he go again? He said his son could not be quiet.

L. C. J. Did he say his son told him? The question is plain: Did he speak it of himself, and not that his son told him?

Radford. He said only that he had attempted his son.

Att. Gen. My lord, we will call Thomas Allen. [Who was sworn.]

L. C. J. What is this man's name.

Att. Gen. Mr. Allen, my lord. What do you know of any application to bring this Lane into Oates's service? Tell your whole knowledge of the matter.

Allen. My lord, about the month of Dec. last, when he was gone out of Dr. Oates's service——

L. C. J. Who was gone out of Dr. Oates's service?

Allen. Lane; he desired me to intercede for him again and again, and accordingly he was admitted into his service again.

Att. Gen. Did you hear any discourse before this, of any attempt upon him?

Allen. How attempt?

Att. Gen. Did you ever hear of any complaints made by Lane against Dr. Oates?

L. C. J. Did you ever hear Lane complain that his master would be uncivil with him?

Allen. No, I remember nothing of that.

Recorder. Now, if your lordship please, we shall give your lordship an account, that when he was admitted again, he bragged he should get a great sum of money; and for that we call Mr. Samuel Oates. [Who was sworn.]

L. C. J. Are you brother to Mr. Oates?

S. Oates. Yes, Sir.

Att. Gen. What do you know of any sum that this Mr. Lane did pretend to get, and on what account?

S. Oates. My lord, about a matter of a fortnight before he went away from my brother, I was in the withdrawing room——

L. C. J. How long is it ago since he went away?

S. Oates. It was in April last, as near as I can remember.

L. C. J. Well, go on, Sir.

S. Oates. So there were several servants in the room, and they were talking and laughing

together; and he was wishing, said he, I wish I had 1,000*l.*; said some of them to him, What would you do with it? Said he, I would take it and fling it upon the ground, and tumble in it; says one of them, You may wish long enough before you have it; I question not, says he, but ere long to find a way to get 1,000*l.*

Recorder. Do you hear him, gentlemen? This was a fortnight before he went away.

S. Oates. I can only speak as to Osborn, as to the thing itself.

Att. Gen. Did you ever hear him say which way he did intend to get this 1,000*l.*?

S. Oates. No, I do not remember that; but upon these scandalous things coming out, I was considering what he had said, and how he behaved himself in his service, and upon recollection, I did think of this saying of his.

Justice Pemberton. Aye, he recollected it afterwards.

Mr. Williams. Speak those words over again, as near as you can remember.

[Then Mr. S. Oates repeated his evidence to the same effect.]

Sir Fr. Winnington. What is that of Osborn that you can say?

L. C. J. What does that signify to these defendants?

Sir Fr. Winnington. Although he is not a party that does defend this matter; yet it is all one entire act that they three were in combination to corrupt the king's evidence, and to stifle it; and though so far as it does relate to Osborn, it will not convict him being absent; yet it will enlighten the king's evidence about the Conspiracy, for he is mentioned in the indictment.

L. C. J. Well, if you think it material, you may ask what questions you will about it.

S. Oates. I was asking Osborn, a little after he was let out of the Gate-House, how he came to repent himself—

L. C. J. Who had repented himself?

S. Oates. Osborn.

L. C. J. Had Osborn repented himself, of what?

S. Oates. Of what he had given an account of before the committee.

Justice Pemberton. Do you know any thing of that?

S. Oates. I know nothing but what they did say upon their examination.

L. C. J. Were you by and present at their examination?

S. Oates. I heard nothing but what they said for themselves; I was at some part of their examination.

Justice Pemberton. What did Knox and Lane say?

S. Oates. Osborn was a saying, that as we walked, said he, in the cloisters of the Abbey; where he did dictate what we were to do.

L. C. J. This is no evidence. Shall what Osborn says at one time and apart from the rest, be any evidence here?

Recorder. No, my lord, we offer it only as an evidence of the general conspiracy.

L. C. J. Osborn is a telling how Knox and Lane and he did conspire and contrive this business; is this evidence against these defendants? I ask my brother Maynard.

Serj. Maynard. My lord, if this were single clearly, it were no evidence; but if it fall out in the evidence, that we shall prove Osborn, Knox and Lane were all in the conspiracy, though it is not direct evidence to convict the other, yet it will enlighten that evidence we give against them.

L. C. J. Why did you not make Osborn a party?

Serj. Maynard. He is laid in the indictment to join with them, but he is run away.

Justice Pemberton. My brother intends it thus, that the business is so interwoven between them all, that to make it be understood, it is necessary to bring in something about Osborn.

Mr. Sanders. I pray they may bring something against them first.

L. C. J. Ay, the counsel say very well on the other side; first prove some fact against Knox and Lane, and then prove what you will afterwards.

Serj. Maynard. It is an inducement to it: but I beseech you, in all cases that are capital, are not the king's counsel at liberty to prove circumstances as well as the substance?

L. C. J. The court will direct it is no evidence against the now defendants, unless you prove the fact upon them.

Serj. Maynard. Unless we do bring it down to Knox and Lane afterwards, that they were guilty, it will not be any evidence, I know.

Mr. Holt. If it be not evidence, we conceive with submission to your lordship, it ought not to be heard.

L. C. J. Prove something first, brother, against the defendants; and then urge this.

Recorder. They need not labour it on the other side. We agree it is no evidence against the defendants, but only circumstantial as of the general conspiracy.

L. C. J. But pray how can it be circumstantial evidence, and yet no evidence? prove the conspiracy, or it signifies nothing.

Serj. Maynard. If it be circumstantial to make good the evidence of the fact, it will be material for us to urge it.

L. C. J. But first prove the fact.

Recorder. We shall now prove, if your lordship please, that Knox, who is one of the persons indicted, hath made his applications to others that had relation to Dr. Oates, to endeavour to persuade them to pick out something or other against Dr. Oates. Call Thurston and Ray.

Serj. Maynard. My lord, we shall first go to the substance of the evidence, and then the circumstantial things will be material, which before were not material.

L. C. J. Now you go right, brother.

Serj. Maynard. We shall go this way, to shew that Lane and Osborn did accuse Dr.

Oates; and after they had accused him, they were convicted in their own consciences; and did confess they had falsely accused him, and afterward did repent of that repentance; and that Knox had an hand in all this.

L. C. J. I think you have not opened that clear enough; before whom was that accusation?

Serj. Maynard. Before the lords, and sir W. Waller.

Recorder. For they were in the Gatehouse, and there they sent for Sir W. Waller to come to them, and there did confess the matter to him; whom we desire may be sworn. [Which was done accordingly.]

Sir W. Waller. My Lord, upon the 29th of April, during the sessions of parliament, there was a committee of lords appointed for the taking instructions about this Plot: being there attending upon the lords, this complaint of Mr. Oates was brought before them, of the horrid abuse of two of his servants. And the lords were pleased to order Mr. Warcup and myself to take their examinations.

L. C. J. What two servants were they?

Sir W. Waller. They did belong to Dr. Oates.

L. C. J. What were their names?

Sir W. Waller. Osborn and Lane.

L. C. J. What found you upon their examination?

Sir W. Waller. Upon the examination of Osborn and Lane, I did find they did agree together to a tittle.

L. C. J. Then tell us Lane's evidence first. If they agreed in a tittle, tell it us what it was.

Sir W. Waller. My lord, Mr. Lane did confess this.

L. C. J. What, upon his oath?

Sir W. Waller. Yes, upon his oath, my lord.

L. C. J. To you?

Sir W. Waller. Yes, my lord, that he had been induced by Mr. Knox to betray his master, and for to swear several things against him which Knox had drawn up and dictated to him. He did not write them himself, but Osborn writ them, and he did sign them. There were four letters that were brought before us; there were three or four memorials, as they called them, three or four informations, which were those papers that they carried to Mr. Cheyney to Chelsea.

L. C. J. Who carried them?

Sir W. Waller. Knox took Osborn and Lane with him, and carried them thither, as Lane swore. And when they came thither, and he was acquainted with the business, he looked upon it as so foul and notorious a thing, that he would not meddle with it; but he advised them that they should go (because Knox pretended the lord of Danby was much concerned in it) to some other Justice of Peace, or some of the Privy-Council that were friends of my lord of Danby.

L. C. J. Knox advised this, did he?

Sir W. Waller. No, they said Mr. Cheyney did. They went afterwards (and they did all

confess it) to Mr. Dewy, and Mr. Dewy gave them the same answer, that he could not meddle with it. And after this Mr. Knox went and took several lodgings for them, fearing that Dr. Oates would hunt after them; and one lodging, amongst others, was, I think, the Three Flower-de-luces in White-Friers. And afterwards they removed to a place in the paved alley betwixt Lincoln's-Inn Fields and Chancery-Lane. During which time, Knox did bid them stand firm to what they were to do, and they should not want for a considerable reward, and have wherewithal to maintain them with their footmen, and live very well. And, my Lord, Lane did confess this, that he brought Mr. Osborn to Knox first into the Painted Chamber, and made them acquainted there. And, my Lord; there is one thing that I omitted; Mr. Lane did confess to me, that Mr. Knox did, at the One Tun Tavern I think it was, drop a guinea upon the table, and said, I will not give it you, because now I can safely swear that I never gave you any money; but be sure you stand fast to these informations, and to what I have dictated to you, and you may be sure you shall be well rewarded for your pains. And he told them this more, 'My lord-treasurer would never have surrendered himself to the black-rod, unless you had promised to stand fast to this Evidence;' that was, to swear to what evidence he had dictated to them.

L. C. J. Did Lane produce the informations, and those things that Knox tempted him to swear?

Sir W. Waller. My Lord, they were produced before us.

L. C. J. What were they? What was the substance of them?

Sir W. Waller. One part was to swear that Mr. Bedlow should come to Mr. Oates, and say to him, That my lord of Danby should offer him a considerable sum of money to go beyond sea.

L. C. J. To whom?

Sir W. Waller. To Bedlow. And that was only considerable as relating to Mr. Bedlow in any part of the examination: but as to Mr. Oates, they were to accuse him of having a design of abusing his body; for he sent to me—

L. C. J. Who did?

Sir W. Waller. Lane sent twice. Upon his first examination he did seem to be very shy; but upon the second, he sent one Rix to me, one of the yeomen of the guard, to let me know that he was troubled in his conscience at what he had unjustly done in charging Mr. Oates, and that he was desirous to discharge his conscience of the burden that lay on it, and to wave his own reputation, that he might acquit the innocent.

L. C. J. Why, where was the villainy done that he repented of?

Sir W. Waller. My Lord, it was in reference to his swearing against Dr. Oates.

L. C. J. Where, before the Lords?

Sir W. Waller. He was brought that very

morning before the Lords; but notice being come that the king was come in, and the house was sitting; he was remanded, and afterwards sent Rix to me, to tell me, he was sensible of the injury he had done to Dr. Oates; and would make a confession of all.

L. C. J. Where had he done him injury?

Sir W. Waller. In reference to those abuses that he had offered to swear, and I think had sworn, but before whom I don't know; I suppose you will have an account of that by and by.

L. C. J. So then this is the substance of what you say as to Mr. Oates, That Lane sent to you and shewed you several papers and informations against the credit of Oates and Bedlow, and told you that Knox did tempt him to justify this and swear it; and that he went with them to a Justice of Peace in order to do it, but he did not care to meddle with it, and bid them apply themselves elsewhere; and afterwards they came to you; and whether it was sworn or no, you cannot tell, but you say he did confess he had wronged Mr. Oates in those scandals that he would have put upon him; and that this was by Knox's advice and direction?

Sir W. Waller. But there is this thing further: He said truly that Mr. Oates would be something hasty and passionate; but that he was very religious, and was very constant in sending his servants to prayers; and that what he had accused him of, it was an abominable falshood, and was done by the instigation of Knox, who had encouraged him to it by the promises of a great reward.

Justice Pemberton. And it was he that told you of the dropping of the guinea, was it not?

Sir W. Waller. My Lord, he did confess that himself, but he said he lent it.

Sir F. Winnington. Pray did Lane confess to you from whom this money and reward was to be had? for he was not a person that was likely to bestow so much money of his own. Was it from any of the conspirators? Or from whom, that the reward, and this money should come, upon your oath?

Sir W. Waller. I have examined them many times as to that, but could never learn any thing.

Just. Pemberton. Sir W. Waller, was Knox ever before you?

Sir W. Waller. Yes, my lord, I took his examination, and it was only to excuse himself, that he received the letters from them, which they said they writ out of trouble of conscience, and would have him to take their examinations and to go along with them before a justice of peace.

L. C. J. That was Knox's defence; said he, they came to me, and I did not go to them, but they desired me to go along with them to a justice of peace.

Justice Pemberton. Did you let him know what they had said to you?

Sir W. Waller. No, my lord; I kept that private: But there was one thing very material. That morning we took Knox's Examination, we

were so long about it, that we could not dispatch it in the forenoon, and therefore ordered Lane to be brought before us in the afternoon; and then did Knox write a note, and sent it up by a woman that was a nurse there in the prison, and there was a paper conveyed through the door to him to this purpose, 'We paid our—'

L. C. J. Who writ that note?

Sir W. Waller. Knox did, and confessed it to me.

L. C. J. To whom was it conveyed?

Sir W. Waller. To Mr. Osborn from Knox; and it was, 'We always paid our club'—

Mr. Sanders. How do you know it was from Knox?

Sir W. Waller. He confessed it.

Mr. Sanders. Did he shew it you?

Sir W. Waller. No, I did not see the note, but he confessed it.

Justice Pemberton. Pray Mr. Sanders do not interrupt them, they are in their evidence.

Serjeant Maynard. They must do that, for that is the best part of their defence for ought I know.

Sir W. Waller. The words, my lord, were these, 'We always club'd, and you paid two shillings at the Sugar-loaf. Tear this.'

L. C. J. Why what could this be?

Sir W. Waller. Why, I will tell you, my lord, it was upon this account, that he should not gain-say what he had confessed and agreed to, that so they might not be in two stories.

Serjeant Maynard. My lord, Osborn and Lane had formerly accused, and given some informations against Dr. Oates; afterwards you see what happened before sir W. Waller, they renounce what they had done, and then, my lord, was Knox imprisoned, and thereupon he writes this note, 'We always club'd together, and you paid two shillings at such a place.' The circumstances will come out by and by. They met at several places, and we shall prove that Knox bore their charges, and paid for them, though by this note he would make it, that they bore their own charges.

Justice Pemberton. The succeeding evidence will open it.

Sir W. Waller. My lord, here is one thing more that I had forgot: Lane did confess, that for the preventing of any discovery of this horrid fact, it was agreed among them, that if any one should make a discovery of it, the other two should murder him.

Sol. Gen. We desire that the jury may observe that.

Sir W. Waller. He did likewise declare, that the lords in the Tower would not be wanting to acknowledge the kindness in disparaging the king's evidence.

Justice Pemberton. That was Lane and Osborn did confess that?

Sir W. Waller. Yes, both Lane and Osborn swore it positively.

Sir Fr. Winnington. If you have done as to Lane, pray acquaint my lord and the jury what

you know of the confession of Knox upon his examination.

Sir W. Waller. Knox confessed not any thing, but stood stiff to it, that the papers and letters were written by them, and contrived by them.

Justice Pemberton. And that what he did was at their request?

Sir W. Waller. Yes, but the rest did both confess, that what was done was wholly by the contrivance of Knox.

L. C. J. Did you ask Knox if he had dropped a guinea?

Sir W. Waller. My lord, he confessed he had dropped a guinea, but it was only to lend them, and they promised to repay him; and that one morning he dropped ten shillings upon the bed, and they took it up.

L. C. J. Knox said he only lent it?

Sir W. Waller. Yes, but they positively swore both the one and the other.

Justice Pemberton. What said Knox to that?

Sir W. Waller. He lent them only.

L. C. J. Well, go on, Sir.

Sir W. Waller. And Lane did positively confess, that at all the places, and the several lodgings, and the treats and entertainments they had been at, they were all at Knox's charge, except twice, which might amount to about eighteen pence, and that he paid.

L. C. J. What said Knox to it?

Sir W. Waller. He denied all.

Justice Pemberton. As to the manner of it, what said Knox to the dropping of it?

Sir W. Waller. He confessed he dropped it, but only lent it them.

Sir Fr. Winnington. You say Lane was a servant to Dr. Oates, pray whose servant was Knox?

Sir W. Waller. He did belong to my lord Dunblane. And moreover, Mr. Knox did confess to me, that the papers so drawn up and delivered into his hands, had been in the custody of my lord Latimore for a long time.

Sir Fr. Winnington. Did he so, I hope the jury will believe him then.

L. C. J. Sir W. Waller does swear, that Knox confessed that all those scandals raised against Dr. Oates, had been by his hands delivered into the hands of my lord Latimore, and were there for some time.

Sir W. W. Yes, my lord.

Sir Fr. Winnington. I did not well hear you, Sir, one thing you were saying in the beginning of your evidence, that these gentlemen spoke of my lord of Danby's not surrendering himself, pray let us hear that over again.

Sir W. Waller. Mr. Lane said this, that my lord of Danby would not have surrendered himself to the Black-rod, but that he did depend upon their standing to what informations they had given in.

L. C. J. Upon your oath Lane did say this?

Sir W. Waller. Yes, my lord.

Serjeant Maynard. My lord, now we will

call another justice of peace, that took their Examinations, and we shall then particularly apply ourselves to Mr. Knox, that seems to make these excuses for himself. Call Mr. Justice Warcup. [Who was sworn.]

Warcup. I must beg the favour of the court, because my memory is bad, that I may refer to the Informations that were taken before me.

Just. Pemberton. You may look upon them for the refreshment of your memory.

Warcup. I answer, to every part of this that hath my hand to it, I desire it may be read.

Recorder. No, that can't be, you must not read them, but only refresh your memory by them.

Warcup. This John Lane did confess he liv'd with Dr. Oates, and about the 7th of April he left him, and while he lived with him, he said, he sent his servants daily to prayer in the morning to the chapel, and left but one at home to dress him, and whilst he was with Dr. Oates, he was never charged by his master with the opening of any letters, and that the informations marked 1, 2, 3, 4 and 5.—

Williams. Pray, sir, acquaint the court as far as you can by your memory.

Warcup. Lane, my lord, before me denied all that he had said, that is, that what he had said before the lords was true, but that particular examination before sir W. Waller was by him alone.

Sir Fr. Winnington. Was he upon oath before you?

Warcup. Yes I find he was.

L. C. J. Did you examine him after sir William Waller, or before?

Warcup. To the best of my remembrance it was before.

Just. Jones. He was upon his oath here too?

Warcup. Yes, and I must acquaint you I find it at the bottom to be (*Jurat.*) He was brought before the Lords of the Committee for Examinations, and did there likewise at first swear the things in these notes contained, and did afterwards come to the said committee, and beg their pardon, and God's pardon for what he had sworn, for it was false.

L. C. J. Who did?

Warcup. Lane did.

L. C. J. Did you hear him?

Warcup. Yes.

Just Jones. Was he upon his oath the last time, when he said this to the committee?

Sir W. Waller. Yes, my lord, I was by too, I heard him.

L. C. J. So he swears backwards and forwards.

Sir Fr. Winnington. Such people used to do so.

Warcup. That particular of the Note, that Mr. Knox sent up by the nurse, I was by and did hear him confess it.

Sir W. Waller. But he did declare there to the committee, that it was his voluntary repentance, and that he was exceeding sensible of the abuses he had offered to Dr. Oates, in this design of accusing him in such a manner.

Just. Jones. What, before the lords?

Sir W. Waller. Yes, my lord.

Warcup. Mr. Knox did say he sent such a Note up to Osborne, and the words were, as I remember, 'We always club'd and you paid 'two shillings at the Sugar-loaf, Tear this.'

L. C. J. Look you, the use I see that would be made of this, is that Knox in a secret way should give intimation to this Osborne, that he should not own that he had been treated by him, or any money spent upon him, and this Note is the cunning way of insinuating that matter, as I understand it.

Warcup. I shall humbly acquaint your lordship with one thing further; Knox did confess that he had lain with these people in several private places, for there were warrants out for the apprehending them, upon the information given by Dr. Oates of this contrivance, that he had lain with them at White-Friers, and Charing-cross, and at other places.

Just. Pemberton. That he had obscured them when they were in danger.

Warcup. That he had lain with them at that time.

Sir Fr. Winnington. Pray, upon your oath, when he had told you he had lain with them in any private lodging——

Just. Pemberton. Did he say he had advised them where to lie?

Warcup. He said he had been with them, and advised them where to lie.

Just. Pemberton. Did he say he had taken lodgings for them?

Warcup. Yes, he did.

Sir Fr. Winnington. Your question, sir, hath prevented mine; but I would ask him a question further. Did he confess to you he paid for those lodgings?

Warcup. Truly, my lord, unless I read the information, I cannot tell.

Sir W. Waller. My lord, I perfectly remember this, That Knox did confess he had paid for their lodgings, but they were to pay him again; but both Osborne and Lane did positively swear he did pay for all, and several times at several taverns where he treated them, he bid them call for what they would and they should have it.

Sol. Gen. What do you know of being at the Sugar-loaf at any time?

Warcup. I tell you what I find here he confessed, that they complaining they knew not where conveniently to lodge, this examinant told them he would endeavour to find them a lodging, and the very self-same day, he went by the direction of one of my lord Dunblane's servants, a coachman, to the Sugar-loaf in White-friers, and took lodgings as for himself and two of his friends, and lay there with them to the time of his going from the same lodging, which was five or six days.

Just. Pemberton. And he did it by the direction of my lord Dunblane's coachman?

Warcup. Yes, my lord, it is so in the information,

Serj. Maynard. Is that information true?

Warcup. Yes, my lord, I am sure he said it, or I should not have writ it down.

L. C. J. Mr. Warcup. had Lane recanted what he had said against Mr. Oates at that time when the lodgings were taken?

Warcup. My lord, it was before they came to the lords that they took these lodgings.

Just. Pemberton. Ay that is clear, it was before all came out.

Warcup. I was commanded by the House of Peers to give my warrant for the apprehending of them.

L. C. J. The lords sent to apprehend them upon the slander of Mr. Oates, and then he concealed them.

Recorder. My lord, sir W. Waller speaks of one Rix that was sent by Lane to him to make a discovery, this is the gentleman. [Who was sworn.]

Rix. May it please your lordship, there was one Osborne that was concerned with this Lane, who is since run away: Osborne came first upon the guard to me, and desired me to get him into service. He desired to come into my lord-treasurer's service, and what he desired of me was to frame him a petition to my lord-treasurer. We had no answer till two days after, and I being upon the guard with Dr. Oates, I did suppose I might get him into his service, I spoke to Dr. Oates, and he entertained him; and after he had entertained him a while, this Lane then being a servant with him, they both told me they were a going off now from Mr. Oates.

L. C. J. Who told you?

Rix. Lane and Osborne, and that they should get preferment; they were sworn brothers together, if one did go, the other would go. I asked them why they would go away? Oh, said he, I shall keep my man myself. Say you so, said I, I have been in town so long, and I could get no such preferment. Then they told me they should have 100*l.* a year, and 500*l.* in money.

Justice Pemberton. Who told you so?

Rix. Osborne and Lane both.

Justice Pemberton. What, 100*l.* a year, and 500*l.* a-piece.

Rix. Yes: so I asked them how, but they would not tell me, but said Osborne to me, for your preferring me to Mr. Oates, you shall be no loser. I met him another time, for Osborne came to desire me to lend him a cravat. Said he, I must come down to your house to-morrow morning to get a cravat, I desire I may have a good one, for I am to go before one of the greatest peers of the realm to dine with him: where, said I, to which end of the town? The other end of the town, said he to me: but, said I, why do you leave Mr. Oates? Oh, said he, let Mr. Oates look to himself, for I have enough against him. Then I smelt something of some design against Dr. Oates, and brought it before justice Warcup, and gave in my testimony, and upon further inquiry into it, the Lords ordered him to send out his warrant for the taking of those fellows, Knox, Lane, and

Osborne, which he assigned over to me; in a short time after they were taken, first Lane was taken, and in a day or two Osborne and Knox, and were examined and taxed with it. Osborne he made a confession before justice Warcup, and they desired me to see Knox and Lane, in prison, and I did see them in prison, and when they did come there, Knox said, Where is Osborne, why do not he come to prison as well as I? I am a better gentleman than he. Oh, said I, he hath confessed; so he was turned up into the prison. Said I to Mr. Lane, will you drink a pot of beer? said he, I do not much care if I do; and said he, Mr. Rix, if I have not gone too far against myself, if you will stand my friend, I will make an honest confession. Said I, I am glad there is so much grace in you, I will then do you all the good I can. Pray, said he, will you please to go and call sir Wm. Waller? Why not justice Warcup, said I, who was first concerned in this discovery? No, he would have only sir Wm. Waller. I came and found him in the Court of Requests, so I went with him to Smith's the tobacconist near the gate, and sent for Lane; the keeper brought him: I think this was about nine or ten in the morning, and from that time till about six at night he was in examination. I then went to Mr. Oates, and told him Lane had made an honest confession. I waited on sir Wm. Waller till the afternoon, and then he made an order, that he having made an honest confession, should have the enlargement of the prison, and not be confined, as others were, which he had. Lane sent for me the next day, I came down in a day or two after, and his sister was there with him, they were eating butter and radishes, and when I would have paid for the drink, Lane cried, No, by no means; for Knox hath sent me in 23s. the other day, and that will serve me, I hope, till I come out: but now, said he, I have made a confession, I believe I shall have no more money from him; and I desire you would speak for my enlargement. I came down to him another time, and he told me he had received a note, which note was put up from a gentlewoman in the street. "That if he would stand firm to his text, he should have 500*l.*; nay he should not want 1,000*l.*; but in case they would not stand firm to their text, the Lord Treasurer would never have come in; and if yet they did not stand firm, he would lose his head."

L. C. J. Who came that note from?

Sir W. Waller. He told me this, That there was such word brought to him by the nurse, and she told him, That a gentlewoman very well clad came to her, and desired her to speak to him to stand fast, and that Osborne and Knox would be sure to stand fast, and that they two should be too strong for the other, he being but a single evidence; and more than that, he should not want 1,000*l.* if he had occasion for it. I asked the nurse what the gentlewoman's name was, she told me, she had asked, but she would not tell her.

L. C. J. Where is this woman, this nurse?

Sir W. Waller. She was nurse to the gaol, and was turned out upon this discovery by the gaoler.

Justice Pemberton. You had this from Lane, sir Wm. Waller?

Sir W. Waller. Yes.

Rix. My lord, after this was done, Lane's father and mother told me this at my own house, that had it not been upon their son's account, my lord Treasurer would never have come in; and they told me that one Hest should come and tell them so: and Lane himself told me, he thanked God that now he had made an honest confession, that now his heart was very light; he had a burden upon him before, but now he had confessed, and his heart was light.

L. C. J. What did he confess?

Rix. He did confess, That my lord Treasurer would never have surrendered himself if he had thought they would not have stood firm, and if they did not stand firm he should lose his head.

Mr. Williams. You say Lane confessed this as of himself.

Rix. Yes, and afterwards his father and mother told me so, and he did say as of himself, that he had a note put under the door.

L. C. J. But from whom had he that note?

Rix. From a gentlewoman in the street, he told me so.

Justice Pemberton. What did he say as to Knox?

Rix. He told me he was set on by Knox, and he drew up all the writings for him; and Knox told him, if you come to be examined at such or such a thing, make a stop, and turn this way and that way.

Mr. Williams. Pray acquaint the court and the jury, Did Lane tell you how he was drawn into this, and who drew him in?

Rix. Knox was the man that drew up the writings, and promised him those rewards, he said.

Justice Pemberton. You say he told you that Knox promised them? How far Knox will be concerned in this evidence, will be considered afterwards.

Serj. Maynard. Now we come to Knox's own particular actings. What hath been said already, hath been out of other people's mouths, now we come to him himself, and we call Richard Slightam [Who was sworn.]

Att. Gen. Pray, Mr Slightam, will you tell my lord and the jury, what you know of this Knox, what offers have been made you, by whom, and when, and for what?

Slightam. I was offered money to carry notes from the one to the other.

Sol. Gen. Why, what office had you there?

Slightam. I was a prisoner there myself, and under-gaoler too, and I was offered money to carry notes between the one and the other, that they might not betray one another.

Recorder. By whom?

Slightam. By Knox.

L. C. J. What did they offer you?

Slightam. I had three half-crowns given me at one time by Knox; and he promised me he would give me a considerable sum.

L. C. J. But he did not name the sum?

Slightam. No.

L. C. J. What did he desire you to do for that money?

Slightam. He desired me to carry notes from the one to the other, that they might not betray one another.

Att. Gen. Between whom? Name them.

Slightam. Knox, Lane, and Osborne.

L. C. J. What did you say, that they might not betray one another? Why?

Slightam. Yes, that they might not betray one another, for they were fearful that they should, because they could not speak together, to lay their stories together.

Att. Gen. And hark you, Sir. What messages did you carry between them?

Slightam. None, I never carried any.

L. C. J. No, what had you your money for?

Slightam. I told them of it below, and they would not let me carry any.

L. C. J. But you got your money?

Slightam. Yes, I got some money.

Att. Gen. Knox you say gave you the three half-crowns. Did you speak with Lane and Osborne?

Slightam. Lane I spoke with every day, and Lane said, he hoped that the lords would not put him in the pillory, for all he had sworn falsely.

L. C. J. What lords?

Slightam. My lord Shaftesbury, and my Lord Privy Seal.

Mr. Smith. What did Knox say to you after Osborne had confessed?

Slightam. That is nothing, said he, if we do but stand firm together, what Osborne hath given in evidence will signify nothing.

Mr. Smith. Why?

Slightam. For two, he said, were better than one.

Sir Fr. Winnington. I think you say you had three half-crowns given you by Knox, pray who was the first that offered you money to carry the notes?

Slightam. It was Knox.

Sir Fr. Winnington. Aye, he carried the purse.

Slightam. Yes, I suppose he did.

Justice Jones. They were both in the Gatehouse, prisoners at that time.

Slightam. Yes, so was I. But they were locked in several rooms, and none could come at them.

L. C. J. But you carried no note nor messages, upon your oath?

Slightam. No.

Mr. Williams. Pray call Mr. Dewy. [Who was sworn.] Pray, Mr. Dewy, will you acquaint the Court and the Jury, what discourse you had with Knox, who he came from, what he came about, and what recommendations he brought with him, and from whom?

VOL. VII.

Dewy. My lord, some time in the sitting of the last parliament that began in March, about ten o'clock at night a message was sent in to me that one would speak with me from my lord Latimer: I was either in bed, or going to bed; and I did not think there was really any such message, because my lord Latimer did not know me, nor I him. They were very pressing to come in, insomuch as my man could hardly keep them out. I told them there was nothing sure of so much haste; but what might be done to-morrow, or some other time: So I spoke not with them that night. Either the next day, or some short time after, as I remember, Mr. Knox came to me with another gentleman, and he brought papers in his hands ready written; he told me that they were informations of one Lane and Osborne (as I remember those were the names he mentioned then and they were against Mr. Oates. Then I began to look upon it as something extraordinary, the parliament being then sitting, and the committee of each House having the examination of this business. Said I, Mr. Knox, you have been a justice of peace's clerk (for I knew him so) and you know it is very unusual to take informations against a person without the party's being present, if he may be had, to cross-examine the witnesses upon interrogatories, as the case may be: And besides this looks as if it were to take informations against the king: which we never do upon oath. So I dismissed them, and directed them to the committee of secrecy of the House of Commons, for whom it was most proper. This is all I know of this business.

Mr. Williams. Did Mr. Knox tell you any thing that was contained in those examinations?

Dewy. Yes, he did give me some information, that Osborne and Lane did repent of something, but I can't give you information particularly.

Mr. Williams. Pray tell the substance of it.

Dewy. I can't remember what the particulars were, but Lane and Osborne were the parties to be examined, and I shifted them off as well as I could.

L. C. J. Did they come along with Knox?

Dewy. They were not in my room, but they were without, I believe.

L. C. J. And did he tell you at the same time that they had recanted?

Dewy. Truly, my lord, I can't well remember; but he said they repented of what they had falsely accused my Lord Treasurer of.

L. C. J. Did they say they had falsely accused Mr. Oates?

Dewy. No, they did charge Mr. Oates with some crime; and they did speak something of false accusing, I can't remember what.

L. C. J. Did not they say, Mr. Oates?

Dewy. I remember it now; it was as if Mr. Bedlow and Mr. Oates had made a conspiracy against my lord of Danby.

Sir Fr. Winnington. I think you say, you knew Mr. Knox a justice of peace's clerk:

3 E

Pray, Sir, you are an ingenuous man, from whom did he pretend to come to you?

Dewy. He came to me from my lord Latimer, as he said.

Sir Fr. Winnington. Did he say so, that the lord Latimer wished him to go to you?

Dewy. Yes; and I wondered at it, because I did not know my lord, nor my lord me.

Mr. Withins. When was this?

Dewy. It was the latter end of April or the beginning of May, as I take it; I do not very well remember: but the substance of it I remember was, that they had overheard Mr. Oates and Mr. Bedlow conspiring against my lord of Danby.

L. C. J. Mr. Dewy, can you remember whether they did come to give you information against Mr. Oates for abusing their bodies, or Oates and Bedlow's conspiracy against the earl of Danby?

Dewy. Truly, my lord, I can't be positive in it; for the parliament was then sitting, and I shifted them off.

Justice Pemberton. You never looked into the information at all?

Dewy. No, I did not, I thought it not proper for me.

Recorder. Call Henry Wiggins and his mother. [Who were both sworn.]

Att. Gen. Come on, Mr. Wiggins, what do you know of any endeavours of Knox or Lane, or any of these persons, to take off or scandalize Mr. Oates's or Mr. Bedlow's testimony?

L. C. J. What is this man's name?

Att. Gen. Henry Wiggins.

Wiggins. About the latter end of February last, Mr. Knox and I met at Charing Cross, and we went in and drank together; and he proposed several things to me; first he desired that I would get for him a copy of the papers my master had.

L. C. J. Who is your master?

Wiggins. Mr. Bedlow. And especially what concerned my Lord Treasurer; as also to take a journal of all my master's actions; and the names of the persons that came to him; for, said he, my lord hears that my lord of Shaftesbury and the duke of Buckingham do cabal with him against my lord. But if my lord could but find out his enemies, he would oppose them, and strive to baffle them. My lord, to encourage me to this, he told me he would carry me to his lord, though it were at midnight, to discourse with him.

L. C. J. What lord?

Wiggins. My Lord Treasurer: And he said he should give me encouragement to go on. Said I, Does my lord know of this? Yes, said he, I told my lord I had a friend lived with Mr. Bedlow, and he gave me encouragement to go on and treat with him. And he said moreover, my lord, Mr. Oates and Mr. Bedlow were two great rogues; that the king believed not a word they said; and as soon as he had heard all they could say, they should be hanged.

Mr. Williams. Pray did he propose any reward to you?

Wiggins. He told me his lord should give me encouragement.

L. C. J. What should you do?

Wiggins. He desired me to give my lord the papers, and then my lord should tell me what I should do about my master.

Sir Fr. Winnington. What did he say of Oates and Bedlow, Sir?

Wiggins. He said, That Oates and Bedlow were great rogues, and that the king knew them to be so; and when he had heard what they could say, he would hang them.

Mr. Williams. Pray upon your oath, did he offer you any money, or any reward?

Wiggins. He offered me not any particular sum, but he told me I should have satisfaction and reward, or any place in my lord's disposal I should be entertained into, if I went away upon this business.

Mr. Williams. Did he say any thing to you to invite you, or encourage you to swear against your master?

Wiggins. No, But he told me my lord should give me directions how to go on.

Recorder. What say you as to Lane and Osborne?

Wiggins. I did not know them at that time.

Recorder. What time after was it that you did know them?

Wiggins. I met with them a little while after, and they were discoursing all together, but I had no discourse with them.

Recorder. Did Knox at any time speak to you, to bring him into the company of Lane and Osborne?

Wiggins. No, Sir.

Recorder. This was the first time you met with him about this matter?

Wiggins. Yes, it was.

L. C. J. What did you promise Knox you would do?

Wiggins. I told him I would do him any service that lay in my power, but nothing that would be to my master's prejudice; and I was appointed by him to meet him at my Lord-Treasurer's.

L. C. J. And what other meetings had you besides?

Wiggins. I was but twice with him.

L. C. J. You never agreed to any thing?

Wiggins. I told it my master, and it was discovered soon after, so that the Lords came to hear it.

Att. Gen. Where is Mrs. Wiggins? What do you know of any endeavours to corrupt this evidence?

Mrs. Wiggins. I know no more than what my son knows; he first came to my house.

L. C. J. Who?

Mrs. Wiggins. Mr. Knox; and asking me where my son was, I told him he lived with Mr. Bedlow: and he said, he very much rejoiced at it, and desired to speak with him. I told him, No, he could not, for his master had so much employment for him, that it was very seldom I myself could get a sight of him. Said he, I have a little concern with him; and he

living with Mr. Bedlow, may do my Lord-Treasurer great service, and doing my Lord-Treasurer service, he does his majesty service; for his majesty loves my Lord-Treasurer above all things in the world. And he would not be contradicted but he would see him. Then the next day I told him he should come, and we appointed to go to him, but he should not see him alone without me, I told him; he told me he desired it not. He came according to the appointment, and I carried him to Charing-Cross to an alehouse, and there sent a porter for my son, and he came: and the first thing he said to him, was, I am mighty joyful to know you live with Mr. Bedlow; you may do my lord great service: In what? says my son. In letting my lord know what company your master keeps, what lords they are that daily and hourly keep company with your master, and cabal against my lord. Said I, Mr. Knox, that is the way to bring my son's neck to the stake; that he shall never do. But, says he, I will tell him a way how he shall do himself no harm at all: and then he up and told him, he desired him to write him letters when he found any thing of secrecy and set no name to it; and if he came at twelve o'clock at night, he would let him into my Lord Treasurer's, and nobody should take notice of it: and he would have had him taken a coach to have gone to my lady Danby presently, to have an assurance from her mouth of encouragement, and that he should have any place in her lord's disposal.

L. C. J. Were you ever with my Lady Danby?

Mrs. Wiggins. No, we denied it; and it was discovered. And besides, my lord, I told him if he would lay down my son 1,000*l.* he should not do it; he should not betray his trust. And then he said, that the king knew Mr. Oates and Mr. Bedlow to be two great rogues; and when he had got what he could out of them, he would hang them.

Mr. Williams. Have you had any offers of late not to come here as a witness in this case?

Mrs. Wiggins. No, my Lord, but there have been persons three times at my house to know whether I were subpoenaed, yea, or no, as from Mr. Knox.

Mr. Williams. Did ever any body persuade you not to come to give evidence?

Mrs. Wiggins. No.

L. C. J. When was this you speak of?

Mrs. Wiggins. In February, the latter end.

Serj. Maynard. Mr. Dewy, who came in company with Mr. Knox to you?

Dewy. One Mr. Blayden.

Serj. Maynard. Who is that?

Dewy. Steward to my Lord of Danby I think.

Serj. Maynard. Here is Slightam again, my lord.

Att. Gen. What have you to say more?

Slightam. Mr. Lane told me they had many treats, and had had so much money, a guinea as I think he told me, to swear against Mr. Oates.

L. C. J. Who gave it him?

Slightam. Mr. Osborne, or Mr. Knox I can't tell which.

L. C. J. Where did Lane tell you so?

Slightam. In prison.

L. C. J. In what prison?

Slightam. In the Gate-house.

Mr. Williams. Call Mr. Palmer. Who was sworn.] We call him to corroborate what that young man Wiggins hath said.

Palmer. What he hath told here, he discovered first to me, and I discovered to his master, that Mr. Knox would have had him to take a journal of his master's actions, and to give it him every day. My lord, I am one of the yeomen of the guard, and I waited upon Mr. Bedlow, and he desired me to help him to a clerk: and I helped him to Wiggins, this young man. He had not been there three weeks, or a very little time, when Knox came to him to tempt him; and being a stranger to his master he knew not how to discover it to him, and told me, such a thing is offered to me, but I am a stranger to my master, and I know not how to break it to him.

L. C. J. The use you make of this, is no more, but only to corroborate what he hath said, that he told it him while it was fresh, and that it is no new matter of his invention now.

Mr. Recorder. It is very right, my lord, that is the use we make of it. Call Thomas Dangerfield. [Who was sworn.]

Mr. Williams. Pray, sir, give an account what you know concerning Mr. Knox and Mr. Lane, and what designs they have had against Mr. Oates, and who supported them and maintained them in it.

Dangerfield. My lord, all that I have to say in this case, is this: I do think it was in the month of June I was at my lord Castlemain's, and he asked me, if I had been employed in a business of Knox and Lane, that were prisoners at the Gate-house: I told him, Not. His lordship then wrote a letter to my lady Powis, and desired I might be employed in it. And she did tell me that it was a thing of material consequence, and that I should be furnished with money for the getting of Knox and Lane out. I took all opportunities for the doing of it that were necessary. I went to the Gate-house, made enquiry after Lane, and took care with his mother to relieve him, for I heard he was in an indigent condition at that time.

L. C. J. Did you give his mother the money?

Dangerfield. Yes my lord, 20*s.* and I had that money from Mrs. Cellier by my lady Powis's order. After that time there was one Mrs. Airy, who used to carry money to the Catholics in prison, she said that it was possible, as she had been informed from some of the priests in the Gate-house that some things might be had under the hands of Knox and Lane that would be very material against Mr. Oates: she said, she had been informed so. I then desired that Mrs. Airy, that pen and ink might be conveyed to them, that they might have the convenience of giving it under their hands, which she promised,

and they did convey pen and ink under the door to this Mr. Lane.

L. C. J. How do you know that?

Dangerfield. As Mrs. Airy told me. Then she came again, and withal told me, that it was Mr. Knox's desire that Lane should do something to signify to him, or satisfy him that he did stand fast; then Lane wrote a little note, and that note was to this effect. "I will die before I will comply with that villain Oates; and if any good people will do me the kindness to get me my liberty, I will do the Catholics the greatest service imaginable in discovering what I know about Mr. Oates. This I now write from the bottom of my heart, and shall die in it. So help me God."

L. C. J. How came you by the note?

Dangerfield. This note was written by Lane's own hand, and given from under the door to one Mr. Parsons a priest in the Gatehouse. This Parsons gave the note to Mrs. Airy, and she gave it to me.

L. C. J. Do you know Lane's hand?

Dangerfield. Yes, very well, as I shall shew you anon.

L. C. J. What became of the note?

Dangerfield. My lord, I do not know what became of the note, for the countess of Powis had it afterwards.

L. C. J. Do you believe it was of Lane's own writing?

Dangerfield. I am very well satisfied of it, my lord, according to the judgment I am capable to give of hands; indeed I was not acquainted with his hand then, but that was the first, to my knowledge, that ever I saw of it; but after I having parted with the note, and seeing some of his hand writing, upon recollection I can say I believe it was his own hand.

L. C. J. Did you ever see the note again?

Dangerfield. Never afterwards. And then my lord, my lady Powis was exceeding glad upon the hearing of it, and, as I was informed of it afterwards, she was the greatest part of the following day upon her knees giving God thanks for the great advantage and strength that was come to their cause.

L. C. J. What! for having a villain to come over to her side that swore backwards and forwards?

Dangerfield. Afterwards I received money several times, and gave his mother more to furnish and relieve him. And several times afterwards I received money from Mrs. Celier by order of my lady Powis, for the doing of Lane's business, that is, for his liberty; and I had the papers from one Lawson an attorney that had been employed in the same business before: and, as I was informed by him, a motion or two was made at this bar for their liberty, but however he began to despair of it, and I was to undertake it; but withal he said, he was glad he was rid of it, for he had been often employed in the business of the Catholics, and it had impaired his credit very much, and very freely delivered the papers to me, which indeed were not many. After that, my lord, I retained

Mr. Sanders, as I think it was he, but there was a motion about it, and with great difficulty I did get Lane out upon common bail; and when I had done so, according to my Lady Powis's order, I brought him to Powis-house; and then my lady Powis ordered, that he should go by the name of Johnson; because if any of the servants should talk of one Lane being in the house, it might come to Oates's ear, the house might be searched, and if he were found there, it might be prejudicial to the lords, and all their business. And then, my lord, Mr. Wood came a little after with the same command from his lord, and he had some order.

L. C. J. Who is Wood?

Dangerfield. That Wood is my lady Powis's gentleman: And he came and ordered that my lady Powis gave particular command to the porter of the house, in my hearing, that he should give order to all the servants, to have a particular eye and care that he did not go from the house, for they were very dubious of him, having made so many equivocations before; for they feared Mr. Oates might find him, or he might go voluntarily and make a discovery of himself, and so contradict all he had given an account of there. For, my lord, before this, as soon as ever Lane was gone out, they were very desirous to have what he had to say put in writing; but they had not opportunity then, but we let it alone to some other time. Then, my lord, soon after, about three weeks or a month after; I cannot be positive in the time, because I had a great deal of business upon my hands; but I suppose it was about three weeks or a month after, my lord Powis sent for me to the Tower, and told me he was informed that Mr. Oates was then making search after Lane, and if he found him at his house, it would be very prejudicial to their business; and he desired me to take care, and to send him out of the way, that Mr. Oates might not find him; which I did; and thinking of several places, I could not find any so convenient as Grays in Essex, by the waterside. I came to Lane, and told him that he should be furnished with money and necessaries for his journey, and in order to it, that very day I took him and gave him a pair of shoes and 10s. in his pocket, and sent him to Grays. I received two letters afterwards from this Lane, by which letters I am very well satisfied, that that note that he wrote before, that was given under the door, was his hand. So then I received a third letter (I think) my lord, and in the letter he told me that some person of Mr. Oates's acquaintance had been in that town and seen him, and he thought it was not material that he staid any longer there, and desired to be removed. So then I shewed my lady Powis the letter, and I suppose my lord Powis had an account of it also; but I cannot be positive in that, but I had order to remove Lane, and by my lady Powis's means I sent down one on horseback, and he discharged some debts Lane had contracted in the house, and sent him away to London; and after his return to London he continued three days more

at my lord Powis's house; at which time, he says, he was forced to lie upon the chairs, for at that time were the St. Omers's witnesses removed from Mrs. Celier's, because they were afraid of being taken up by sir W. Waller, who was in search for them. So having some other business, I did not send him away presently, but I had particular order to send Lane into some other place; and I did advise with Mrs. Celier where to send him, and she said, I think it will be necessary to send him to Peterley, at one Mr. Waite's house in Buckinghamshire; for, said she, they are catholics, and will be sure to take a particular care of him: But I told her it would be too far, and I would think of some place nearer; and then I thought it would be necessary to send him to Tottenham, to the White-Hart; and there he stayed, I suppose, 4 or 5 days, or a week. This was after the trial of the 5 Jesuits, as I remember. My lord Powis sent to me, and told me; says he, I am in several doubts about this Lane, and if it should be known that he is countenanced by me, or any of our people, it would not be well; so I leave him wholly to you, do what you will with him; but I advise you to send for him up to town, and give him 10s. a week to live upon. So when I was at leisure I sent for him again from Tottenham, and I told him; Mr. Lane, it will be very necessary that you do take some care for a livelihood about town; it is not safe nor advisable for you to be about Powis-house; and at that time I took care he should come there no more, and that if my lord Powis's servants should meet him, they should take no notice of him; which they did perform, I suppose, and as I was told. But before this, and before I sent Lane into the country the second time, as near as I can remember, Knox was at liberty. I had been endeavouring, as soon as I had got Lane out of the Gate-House, to get Knox out also; but I found I could not, and I left that. But I have been informed by Mr. Knox himself, that one Mr. Nevil, alias Paine, was furnished with money from the lords in the Tower, for the getting of Knox's liberty; and this Nevil himself did say, as Mr. Knox told me, that he did it by their order; and from this Knox, by Mrs. Celier's persuasion, I received several papers, which were informations against Oates; or at least, those papers that they had drawn up before they were in custody. These papers were sent by me to the Tower, and from thence to Mr. Nevil to enlarge upon, I suppose, as he thought fit; and after to my lord Castlemain, and afterwards they were re-sent to me by Mrs. Celier, who ordered me to draw up an affidavit according to those directions, and get Lane sworn to the same; which I did, and took Lane, and asked him, said I, Mr. Lane, here is an affidavit, can you swear it? Yes, said he, I can swear it, before I read it to him.

L. C. J. I believe so.

Dangerfield. Nay, said I, you know not what it is; so I read it to him; said I, Do you know this to be a truth? Yes, said he, I do

know it to be all true: Said I, I will read it again to you, because you are to make oath of it, and I would not have you do any thing but what is safe; and then we went to sir James Butler, but he was not at home then, to have it sworn.

L. C. J. What was the purport of that affidavit?

Dangerfield. My lord, I cannot well remember the words, but it was about accusing Mr. Oates of Sodomy.

L. C. J. On whom?

Dangerfield. It was for attempting buggery on the body of this Lane.

L. C. J. That was the substance of it?

Dangerfield. Yes, my lord: And I did take this Lane to sir James Butler, and he did make affidavit that it was true: And it was left there before sir James Butler. I suppose the affidavit may be in court, or a copy of it. So, my lord, after that Lane being gone from Powis-house, and I having no manner of converse with him more; but only that every Saturday I took care he should have his money; sometimes I went to his mother's lodgings, and left it there for him; sometimes he would come to me for it. After this we were removed from Powis-house to Mrs. Celier's, but he was always certain of 10s. a week. Sometimes he would pretend that it was too little for him to live upon; and sometimes I would give him two, or three, or four shillings more of myself; but I had no order to do that from any body. This is all, my lord, I do know of Lane, as I remember.

Just. Jones. What do you know of Knox?

Mr. Dangerfield. Knox first delivered to me those papers that were sent first first to the Tower, afterwards to Nevil, and afterwards to my lord Castlemain, and re-delivered to me; and I did deliver them again to Knox, after they were enlarged upon: And I believe, after that, Knox had prevailed with Lane to write them in his own hand.

L. C. J. Why do you believe so?

Dangerfield. Because being writ in a fair hand, Knox told me when the papers were delivered, These are the main things that I am to work by, and these must be produced against Oates, and be writ over in a fairer hand; and by that, I believe he prevailed with Lane to write it in his own hand.

L. C. J. Whose hand were they in?

Dangerfield. It was a strange hand I knew not, and I do not believe it was Knox's hand, though indeed I cannot tell, I know it not.

Justice Jones. Did Knox ask you who had the perusal of those papers? And who had made additions to them?

Dangerfield. No; he took the papers, and took no notice of any addition or enlargement.

Justice Pemberton. Pray, Sir, tell the manner of the delivering of those papers.

Dangerfield. First, by Mrs. Celier's persuasion, Knox delivered me the papers, which imported the whole matter of the charge against Mr. Oates. These I sent to the Tower by Mrs.

Celier's hands; from thence they were sent to Nevil to be enlarged upon; from thence to my lord Castlemain, who was also to enlarge upon them; and from thence they were sent to Mrs. Celier again, and from her delivered to me, and I delivered them to Knox again. I found by his discourse, and every thing else, that Mr. Knox was desirous of my correspondence, but yet seemed as if he were shy of any body's taking notice of it. Said I to Mr. Knox, there is one Mrs. Downing that lives at Lambeth over the water, where Mr. Oates and Dr. Tongue, and several other persons used to meet, where I had been informed by some of the Catholics, by Parsons, my lady Powis, and several others, that Mr. Oates, Dr. Tongue, my lord of Danby, and others, did meet at the alms-houses there, where the Plot was contrived and formed, for they pretended to me there was no such thing really. So, said I, if you will go with me, we will discourse with her about the matter, for I heard she talked very freely in several matters nearly concerning Mr. Oates, and my lord of Danby, and other persons. So, as I said, I told him, if you will go along with me, I have not been there yet, I will go and discourse with her, and put down what she says in writing. Then Mr. Knox, my brother, and myself, did go over to this Mrs. Downing, and had much discourse with her, where she did repeat many transactions that were very agreeable to the story that I had received from my lady Powis, and several other persons before. Knox did seem to be very well satisfied about it; and promised to take cognizance of it, and said, it was very material; but we did not put it down in writing. I did not, I know not what he did afterwards. We promised to come again another time, but I do not remember we did ever go afterwards. But Mr. Knox solicited me to go with him, and some business or other did still intervene. That is all that is remarkable of Mr. Knox, which I do remember at that time. But I do remember that after we were removed from Powis House, when I was at Mrs. Celier's, nay, I think both before and after, he was often treating with Mrs. Celier; but I know not what was their discourse, nor was I desirous to know. But Mr. Knox came then to me, and began to renew his correspondence; and withal told me, that he had some likelihood of bringing Osborne over to their party. Said he, I find he is gone again to his master, but he shall do his business (meaning, as I suppose, Mr. Oates) for he had, as I understood by him at that time, been tampering with Osborne, but he did tell me it was Osborne's voluntary act, that he did own it, and that he did go to Mr. Oates again only to do Mr. Knox service. My lord, some time after this, Knox came to me at Mrs. Celier's, and told me he had done the business; expressing the greatest joy that could be. What business, said I? Osborne is come over, said he, and I have had an account from the beginning to the end of all the transactions of his master Oates; and I have not only an account of it, but it is

put into writing; and I took Osborne before a justice of peace, and he has made affidavit of it. When I heard this, I thought it would give great satisfaction to the lords in the Tower, and desired Mr. Knox to let me have a copy of that affidavit. He told me, No, he thought it would not be material to let me have a copy, for by that means it might become public, and be discovered. And, said he, I have some further design in this; Mr. Oates is going down to my lord Lovelace's in Oxfordshire, and Osborne is going with him, and he hath promised me to be a spy upon his master's actions, and to give me an account of all. And this will be material; but I do not think fit to let you have a copy of the affidavit at present. Some time after this, I told Mrs. Celier the story, who I suppose went to the Tower, and gave the lords an account of it. And the next time I had the honour to see my lady Powis, she was pleased to say, she liked it very well, but did not as I remember, say any thing of the copy; but being desirous to see what Osborne had sworn, and whether it were agreeable to Lane's affidavit, that I spake of before, I did desire Knox to let me see it, but he had it not about him at that time. Some time after that, as near as I can remember, I was at Proctor's Coffee-house at Charing-Cross, and Mr. Knox came thither, whether by my appointment or his, I cannot well tell; but there we met, and one Bedford was with me. At that same time Mr. Knox desired we would go into a back-room; and now, said he, I will give you satisfaction, and drew out of his pocket an affidavit; it was a sheet of paper, if not written of every side, I believe of three sides; it was very long; and he read it, my lord, and I did find by the contents of it, that it did imply the same thing that Lane had sworn before sir James Butler; that is, That Mr. Oates should attempt upon Lane's body, to commit Sodomy, or something very agreeable to it. I told him, Mr. Knox, said I, this is very material, this will do you a great deal of service. The term is coming on, you will do well to get an indictment drawn up against Mr. Oates. Said he, I will do his business, and will advise with persons able to instruct me in it; and I don't doubt but to carry on the business effectually. And to that purpose I desired him to let me have a copy of the affidavit; he promised me I should, and said he would bring it several times; and he came several times to my lodging, but did not bring it; but I having it read to me, and remembering the contents of it, the next time I saw my lady Powis, I gave her an account of it. Said she, this man is very diligent, and deserves to be encouraged; and, as I believe, gave the lords in the Tower an account of it too; for then she was lodged at the Tower with her lord, and so her ladyship told me. And, said she, do you know whether this man be in a condition to prosecute this business against Mr. Oates? Said she, I believe he is put upon this by my lord of Danby, and he, I believe, takes care of him to furnish him with money. Said I, I have endeavoured to

trace him out in that thing, and by all his correspondents I could never find, but only by one, that Mr. Knox was ever acquainted or held correspondence with my lord of Danby, and that person is Mr. Netterville, who is a worthy gentleman of my acquaintance in the Pall-mall; and being in his chamber, Knox came in, and speaking merrily after his manner to him, said he, Knox, when were you at the Tower with my lord of Danby? Said he, I hold no correspondence with him. Yes, said Mr. Netterville, it is plain you do; and I believe a friend of mine saw you go in the other day: But Knox did positively deny it; that was all that ever I heard of his correspondence with my lord of Danby. After this, when her ladyship came to me to ask me what condition he was in to prosecute the trial; I told her, I believed his condition was very mean, and it would be very acceptable, if he might or could be furnished with money. Well, said she, I will take care of it, and give an account of it to my lord, and he shall be furnished. And in the mean time, if Mr. Knox wants money, be sure you take care and furnish him; but you need not let it be very considerable, till you see what is raised. Some time after this, Mr. Knox came to Mrs. Celier's house to ask for me, I was then in my chamber, but not ready; he came up to me, and told me, said he, Really I am very poor, I am going to pawn my sword; or something to that purpose; Can you lend me 5*l*. Really, Mr. Knox, said I, I will tell you, the affidavit that you read to me, I have given an account of it to my lady Powis, and I suppose some other persons of honour have had an account of it also; I am satisfied they are; and that the lords in the Tower will take care that money shall be raised for your prosecuting of Mr. Oates. He seemed to smile at this; But said he, if this should be known, it would be very prejudicial to the business, and spoil it; but yet however if you can furnish me with money at this time, you will do me a great kindness, for I have very great occasion. I told him, said I, I have not so much money by me; you come at an unseasonable time; though indeed I told him a lie; but I thought it not so safe to part with money without further order. Mr. Knox went away, and I gave an account of it to Mrs. Celier, who went either every day, or every other day to the Tower. I told her what Mr. Knox said, and I do believe (as she told me afterwards) she told my lady Powis of it, and Mrs. Celier seemed to be angry that I did not let him have the money, and ordered me that at what time soever after that Mr. Knox should come to me, I should let him have what money he wanted. Some time after this, Mr. Knox did come to me, and said his condition was very mean, and you told me, said he, that care should be taken by the lords in the Tower to furnish me with money. Said I, Mr. Knox, I can let you have 30 or 40*s*. if that will do you any kindness. I have no order for any sum at present; but as soon as it comes it must come to you through my hands; and

it must pass as if I lent it you; and you shall give me a note for it to repay it, lest any thing should come to be discovered, and coming to Mr. Oates's hearing, should prejudice the business; though I had been too forward before in giving Mr. Knox an account that the lords in the Tower would contribute to this business. At that time, I went up stairs and fetched down 40*s*. and gave it him. He came afterwards, and would have borrowed more of me at other times, once or twice after that, but I did not furnish him, for I had received no order to furnish him any further. And this, my lord, is all the correspondence I had with him, and as near as I can remember, I have given nothing in but what is a very true account of the transaction.

Sir Fr. Win. My lord, I crave one question of him, if he have done. After the papers were corrected and written fair, and enlarged upon by the several persons, did you read them? And what were the contents of them?

Dangerfield. My lord, I did not read them, nor did I draw them, but I do believe that the contents were the same for substance with the affidavit that Lane made before sir James Butler.

Mr. Williams. Sir, you mention several sums of money that you paid to Knox, and paid to Lane; pray where had you this money?

Dangerfield. The 40*s*. that I gave to Knox, it was my own money; but if I must give an account where I had it, I believe it came originally from the Tower.

Mr. Williams. The 10*s*. a week, whence came that?

Dangerfield. Sometimes from the hands of my lady Powis; at other times from Mrs. Celier; sometimes from Mr. Wood; and sometimes from myself, and I placed it to accompt.

Serj. Maynard. If your lordship please, we will now proceed to another part of our evidence.

Mr. Williams. About what time were they to indict Mr. Oates? Was not this project on foot when the Presbyterian Plot was on foot?

Dangerfield. My lord I don't know what time; but it was by my advice to be done this term, and so did Nevil advise too.

Serj. Maynard. My lord, I would read some of the memorials or informations, that they were to swear against Dr. Oates concerning the business that you have heard.

L. C. J. Would you have them read, brother?

Serj. Maynard. Yes, my lord.

L. C. J. Who proves them?

Then the Justices of Peace swore them.

Just. Pemberton. Sir W. Waller, did he confess he left them with my lord Latimer?

Sir W. Waller. These are the papers, that were confessed to be carried to my lord Latimer.

Warcup. Osborne did swear, that the Informations marked 1, 2, 3, 4, and 5, were all of his own hand writing, and were dictated by the said Knox.

Just. Pemberton. And he did confess, that

these were the Informations that he had delivered to my lord Latimer.

Warcup. Yes, he did so.

Serj. Maynard. It will lie on his part to prove that they were true.

Just. Pemberton. Which will you have read, one, or all of them?

Serj. Maynard. One, or two, take Knox's first.

[Which was delivered to the Clerk of the Crown, who read it *in hac verba.*]

[Numb. 1.] The INFORMATION of Thomas Knox, sworn before me this day of 1679.

"This Informant doth upon his oath declare, That on the first of this present April, there came one William Osborne, to the Informant in the Painted Chamber in Westminster, and told to him the said Informant, that he had something of moment to reveal to him; and did also desire the Informant to go with him into the Abbey, and he would reveal it to him: Upon which the said Osborne and the Informant being together, the said Osborne did tell the Informant, that his conscience was mightily troubled, for that he found the Lord-Treasurer was maliciously prosecuted by Mr. Oates and Mr. Bedlow; for that he having been a servant to Mr. Oates, and had often heard Mr. Oates and Mr. Bedlow consult together, in Mr. Oates's Chamber in Whitehall, and resolve how they might contrive a way whereby to destroy my Lord-Treasurer: And that he had chosen to reveal this secret, and ease his conscience to the Informant, rather than to any one else, because he thought he would keep it secret, for his own sake, because he had already suffered by endeavouring to serve the said Lord-Treasurer; and thereupon the said Osborne shewed to the Informant some papers written, as he told the Informant, all in his own hand, and which were relating to the said Lord-Treasurer. Upon which the said Informant told the said Osborne, that he was no servant of the said Lord-Treasurer's, and did not therefore desire to meddle in it; and that particularly, because he had never spoke with the said Osborne before, and desired to be excused; upon which the said Osborne did press the Informant; and withal did tell him, that if he did not assist him in this affair, it was resolved both by him, and one Mr. Lane, that they would come in on the day of the said Lord Treasurer's Trial, and declare the truth concerning what they knew, concerning the malicious design of the said Mr. Oates and Mr. Bedlow, against the said Lord-Treasurer; for that they could not rest for fear he should suffer innocently, whilst they could, with so good a conscience, as they thought, save him. And the said Osborne did withal declare, that the aforesaid Mr. Lane was resolved to speak to the Informant upon the aforesaid matter: And the said Lane did accordingly, upon the said 1st of April in the evening, meet the Informant, and shewed him some Papers, wherein he had taken several

Memorials relating to his majesty, the queen, my Lord-Treasurer, and several other persons: And did withal declare to the Informant, that his conscience was so troubled to see the malicious proceedings of the said Mr. Oates and Bedlow against the said Lord-Treasurer, that he could not rest in his bed, until he had disburdened it, by telling the truth; and if he had not met with this Informant, he was resolved to declare it speedily to some one else; or come himself at the day of the said Lord-Treasurer's Trial, and there declare all that he knew relating to that affair. And did withal conjure the Informant, as also the said Osborne, to keep all they had told him secret; for if it should come to the ears of the said Mr. Oates and Bedlow, they would endeavour to poison or murder them, the said Osborne and Lane, the first time they should see them. *Tuo. Knox.*"

Then a second was offered to be read; but there appearing scandalous matter to be in it, reflecting on the king, the court thought not fit to suffer the same to be read through.

Mr. Serj. Maynard. My lord, I think it appears by the evidence sufficiently, how they did design to accuse Mr. Oates.

L. C. J. Ay, brother, come let us hear what they can say to it on the other side.

Mr. Withins. May it please your lordship, and you gentlemen of the jury; I am of counsel for the defendant Knox, and for Knox only.

Mr. Williams. Pray, Sir, hold; my lord, we have here two witnesses more, that will fortify Mr. Dangerfield in what he hath said. Call Susan Edwards, and Mrs. Blake.

Then Mrs. Blake appeared and was sworn.

Mr. Williams. Pray Mrs. Blake, what can you say of any reward Lane was to have, for accusing Mr. Oates? Or any promises were made to him?

Blake. All that I can say of Lane, is this; That Lane did say once to me, I am here; and I was Dr. Oates's man, and he would have buggered me: And he did make complaint for want of linen; and spoke to me to wash him some linen. Said he, Here I have no linen, neither will they let me have any; and his boy here will not stir to look for any, unless Willoughby speak to him. Then the boy was spoke to.

L. C. J. What is all this? What says the other woman?

Mr. Williams. He is called Willoughby sometimes, and sometimes Dangerfield; for he went by both names: But I ask you what money you know was given to him?

Blake. He told me, he was to be allowed 10s. a week.

L. C. J. This is only to strengthen his evidence.

Blake. He never said to me, from whom it was.

Then Mrs. Edwards was sworn.

Serj. Maynard. What do you say, Mistress?

Edwards. May it please you, I do not know Lane; I never saw him in my life, but only when he was sent for by Mrs. Celier, to get an Habeas Corpus for Willoughby, who was then in Newgate; and he did come the next day, and gave his answer to me.

L. C. J. She says nothing, but only he was desired to get an Habeas Corpus for Willoughby.

Sol. Gen. Yes, my lord, she is called to shew you, whether Lane had not money from Mrs. Celier.

Edwards. That was the first time I saw him, and the next morning I saw him again: And when he came to the door, he told his errand to me. He said, he could get no Habeas Corpus; for he was such a rogue, nobody would meddle nor make with him.

Dangerfield. I would fain have her asked this question, my lord, if you please: Did you ever see Mr. Knox at Mrs. Celier's house?

Edwards. If I see him, I can tell.

Then the defendant, Knox, was shewn to her.

Edwards. I cannot say, this is the man: I have heard much talk of Mr. Knox, and that he hath been there; but I cannot swear this is he.

Dangerfield. My Lord, if your lordship pleases, when Lane was first brought to me to the countess of Powis's house, he was very meanly equipaged, and the countess of Powis was informed of it, and did desire me to take some particular care to clothe him, and that I should put him into a disguise; but at that time I had a suit of clothes that were lined with blue, which I gave to him; and I also advised him to cut off his hair and to put on a peruke, which he did, and hath worn it ever since as I believe.

L. C. J. Well, let us hear what they say to it.

Mr. Withins. May it please your lordship, I am of counsel in this case for Mr. Knox; there are two persons here made defendants: as for Mr. Lane, I have nothing to do with him, nor to say for him; and his case hath made him appear to be a very evil man. But my Lord, I do observe that the indictment consists of two parts: the first is, that these two defendants did conspire together; and this was the 30th of April (and the proof comes to that time, for it will be material in our case) that they did maliciously and deceitfully combine and conspire against Titus Oates, clerk, and William Bedlow, gentleman, who had discovered this horrid Popish Plot, and whom they knew to have given informations of it, to take away their reputation, and make them witnesses of no belief, or credit; that is one part of the indictment. The other part is, that to further the same, Mr. Knox did cause two or three letters to be written, as from Osborne and Lane to him, purporting those aspersions to be laid upon Oates and Bedlow: for the last part of the indictment, the counsel for the king have not thought fit to proceed upon it, and they have not given an account of the letters: but for

the first part, their conspiring to take off the reputation of Oates and Bedlow, is the only thing they have proceeded upon, as I conceive. I must needs say, my lord, that Mr. Knox, as well as Dr. Oates and Bedlow, have had a very great misfortune to meet with these men.

L. C. J. To meet with whom.

Mr. Withins. To meet with Osborne and Lane; for I do not here pretend to lay any aspersion, or make any reflections upon the credit or reputation of Dr. Oates or Mr. Bedlow. I think they have served the nation too well to be vilified here. But I shall say this, that as Osborne and Lane had a great design to disgrace and discredit Mr. Oates and Mr. Bedlow, so they had a design to draw my client Mr. Knox in, to pursue their malice. I did shew you, that they did begin their evidence, as to time, in April, and they have laid it so in the indictment: we shall prove to your lordship and shew you, that before this, and before that Mr. Knox knew either Osborne or Lane, that they had drawn up this accusation against Mr. Oates, and read it to several witnesses, which we shall produce. And afterwards, when they came to advise how they should prosecute the same, they were advised first to go to Mr. Thewer: he told them that it was a dangerous thing to meddle about, and he would not involve himself, but bid them take care what they did in it. Upon this they apply themselves to my client Mr. Knox, he told them the same thing; it is a matter of great consequence, I desire not to meddle with it. Said they, will you not assist us in this business, when we only discover this to acquit our own consciences, who knew these things to be treating and contriving against the king and my lord of Danby? for my part, says one of them, I cannot leave the town till I have discovered it. Notwithstanding this, Mr. Knox would not undertake to meddle with it, but left them. They come to him the second time, and Mr. Knox being a young man, and it seems being a servant in the family, entered into a correspondence with them, to prosecute what they had designed to do. There is nothing appears (and this I would observe, if your lordship please) in the whole evidence, that Mr. Knox was to swear any thing against Dr. Oates or Mr. Bedlow (as I remember) but he was indeed engaged to carry on the prosecution, these witnesses informing him of it; and that it was a truth, I must observe to your lordship upon their evidence, they did insinuate, as if Mr. Knox had been at the charge of maintaining Lane: but I think, that Mr. Dangerfield hath pretty well cleared whence that maintenance came that he gave to Mr. Lane; that it came through none of the hands of my client, Mr. Knox.

L. C. J. No, Mr. Withins, he is not accused for giving him a constant maintenance, but for the money, the guineas and ten shillings. It is true, it was said it was to be paid again; but from him they had the money: and it appears, that he provided lodgings for them and paid for their lodgings.

Just. *Pemberton*. And pray observe this; that what Mr. Dangerfield speaks of, is of a time afterwards, after they had been taken and imprisoned, and confessed the matter.

Mr. *Withins*. But this you observe, I hope, my lord, from Mr. Dangerfield's evidence; that Knox was very poor, had not any thing to maintain himself with.

L. C. J. The sums indeed do not seem to be very great; a guinea, and 10s. in silver: but whatever it was, he gave it them, and took lodgings for them and paid for them.

Mr. *Withins*. I did intend to observe to your lordship, that it is a pretty strange thing, that there should be a design to corrupt persons to commit this foul and horrid offence; and nothing of a reward or corruption proved, but two guineas and 10s.

Just. *Pemberton*. What say you to the promises of 500*l.* and 100*l.* a year a-piece?

Mr. *Withins*. That was Lane's own evidence; Lane and Osborne might brag what they would of what they were to have, and from whom; but I believe not one in the court believed a word they said. For it does appear that Lane did forswear himself backwards and forwards as the wind blew. So that, as for what Lane hath said, it weighs not: but we shall call two witnesses, to whom Lane declared this matter in February and March, before the time that Knox was concerned: so that if we make it appear that the contrivance was theirs, and there was only a great deal of weakness and indiscretion in Mr. Knox to believe such idle persons against persons that had shewed themselves so considerable in this discovery; I hope it will not be thought such a crime in us, seeing there is nothing in it, but that a young man was led away; and only his folly and his indiscretion drew him in, not any malice or ill design.

Sir W. *Waller*. My lord, Mr. Knox did confess to me, that he did throw down a guinea, and then Lane and Osborne took it up; but they both positively swore, that he threw it down for this reason, that he might safely swear he never gave them it.

Mr. *Saunders*. All that they swear is not agreed to be true: my lord, if your lordship please, I am of counsel for the defendant Knox, and as to that part of the indictment that charges him with writing the letters, they do not proceed upon.

Serj. *Maynard*. Yes, we do, we proceed upon the whole—

L. C. J. They proceed upon the whole, but you may say, if you will, they give no proof of it.

Saunders. Then, as to that, with submission to your lordship's judgment, the defendant is to be found Not Guilty.

Justice *Pemberton*. You must observe, these are not several crimes, but one continued crime, and therefore the evidence must go to the whole.

L. C. J. You do well to observe it for your client; but if you require it of the counsel on the other side, it may be they will give you an

answer, if you will undertake to affirm, that they have given no evidence as to that part of the indictment wherein it says, Mr. Knox contrived three letters to scandalize Mr. Oates.

Mr. *Saunders*. We submit it to the court whether they have or no. For the other part of the indictment, wherein it is charged, that he should maliciously contrive with Lane to lay a calumny and scandal upon Mr. Oates and Mr. Bedlow, the very point we are to answer to is this, Whether this were a malicious contrivance or no, and for that we shall give your lordship this evidence: that Knox was a young ignorant man, and drawn in by Lane and Osborne to patronize their mischief they intended against Oates and Bedlow; for, my lord, Mr. Knox was not acquainted with them, or had any thing to do with them, till that they had contrived this matter among themselves: for, my lord, we shall call you witnesses to prove, that before Knox had to do with them, they would have had another person to prosecute this business for them. And if we satisfy you that he was drawn in, I hope it will acquit us; notwithstanding I will observe to your lordship and the jury, whether Lane be guilty or not guilty does not affect us, if we were only drawn into the contrivance.

L. C. J. Wherever Lane's testimony stands singly against Knox, it is no evidence.

Justice *Jones*. But if he was not in the Plot at the beginning, but was drawn in, and did after proceed with them, as Dangerfield proves, I doubt it will not acquit him.

Justice *Pemberton*. Consider a little your case; you say here was a contrivance of two, that Knox was not in the beginning, but they offered it to others with whom it would not take. Why, let Knox come in when he will, if he does come into the contrivance, and takes the papers, and manages the business to fix these scandals, and encourage them to carry them on, Knox is as guilty as all the rest.

Mr. *Saunders*. But if these men come and tell him these things are true, and we can swear them, and so is drawn in, it takes away the malice of the contrivance.

L. C. J. This is the use the defendant Knox his counsel make of it: at first Knox was not acquainted with the matter; and when he did come to understand it, he thought it to be true, as they affirmed it was true, and, said they, we will go before a justice of peace and swear it: he was willing, there being a discovery of several conspiracies against his lord's life, as they said, he being his servant, he was willing to prosecute the business; and this is the use they make of it.

Justice *Pemberton*. Come, let us hear your witnesses.

Mr. *Scroggs*. Call Frances Lane and Mary Lane.

L. C. J. But I will tell you what; it will be necessary to clear yourselves, as well as you can, of those papers that were delivered by Knox to Dangerfield, and went about to the lords in the Tower, and afterward to Nevil, and

by him amended, and after delivered to Knox again by Dangerfield: This does shew as if you were concerned in the whole affair, and in all the matter of the information, before it was cooked and after it was dressed. You must give some account of that, for that sticks strongly upon you.

Then Mrs. *Frances Lane*, and her daughter *Mary Lane*, were sworn.

Mr. *Scroggs*. Mrs. Lane, are not you mother to Lane the defendant?

F. Lane. Yes.

Mr. *Withins*. Pray will you give an account what your son said to you in February last?

Serjeant *Maynard*. We pray they may ask their questions in general.

Justice *Pemberton*. Do not you point her to a time.

L. C. J. Answer me: what hath your son said to you at any time concerning Oates?

F. Lane. He spoke it about March.

L. C. J. What did he say?

F. Lane. He used him uncivilly, he had no mind to stay with him.

L. C. J. What said you?

F. Lane. I desired him to stay longer.

L. C. J. How often did he tell you this?

F. Lane. Several times.

L. C. J. He had left his service once, had he not?

F. Lane. Yes.

L. C. J. Was it before or after he left his service?

F. Lane. Before and after too.

L. C. J. If he complained he had so used him before, why would he go to him again?

F. Lane. Because the times were hard, and I persuaded him.

L. C. J. Ay, but would you persuade him after such an abuse of your son as that?

F. Lane. I thought then he would not do so again.

Justice *Jones*. When was the first time he complained to you?

F. Lane. It was about Christmas.

Justice *Jones*. Was it before Christmas?

F. Lane. It was after.

Justice *Pemberton*. Consider here you bring Lane's mother to accuse him to excuse yourself.

L. C. J. But is this material?

Mr. *Scroggs*. It is material to our client Mr. Knox, who was drawn in here by a couple of rascals. We prove, that before this time which justice Warcup and sir Wm. Waller have in their informations, they offered the same discovery to others.

L. C. J. Call them and prove it, but you will never have the better name for calling them ill ones.

Mr. *Scroggs*. We lay all upon Lane and Osborne, who inveigled Knox.

Mr. *Saunders*. Pray, Mrs. Lane, tell the court and jury how and when your son came acquainted with Mr. Knox.

F. Lane. May it please you, my lord, Osborne brings a paper to our house, and would

have had my son have read it, but he could not, so he read it himself; and there were some desperate things in it.

L. C. J. What were they?

F. Lane. I cannot tell, they were concerning the king and the queen and my lord treasurer.

L. C. J. When was this?

F. Lane. In March last, at our house, and I desired them they would not meddle with such things, for I said they were things beyond them. My son promised me he would not meddle with it, but let Osborne alone with it; but said I, pray go to one captain Thewer, he is a good civil man, and a man of understanding. So they did go as I directed them.

Justice *Pemberton*. Who went?

F. Lane. Osborne did.

Justice *Pemberton*. Who went with him? for you say they.

F. Lane. John Lane, my son.

L. C. J. Was there any thing particular in those papers concerning Mr. Oates being guilty of sodomy?

F. Lane. I cannot say in particular, it is a great while ago, but he went to captain Thewer, and he wished him, after he had read it, said he, don't meddle with any of these things, for it will be the worse for you.

L. C. J. As your son told you, you were not by.

F. Lane. Yes, they both told me so. With that says Mr. Osborne, I'll find out one Mr. Knox, who had been some acquaintance of Mr. Wiggins, Mr. Bedlow's clerk; and so, said he, I will ask Mr. Wiggins if he be acquainted with Mr. Knox.

L. C. J. Did your son at that time know Knox?

F. Lane. No, my lord, he had never seen him at that time; so my son went, and they found Mr. Wiggins and Mr. Knox walking in the abbey.

L. C. J. Was Lane with him then?

F. Lane. He went with Osborne, and came and told me, Knox would not meddle with them.

L. C. J. Who came and told you so?

F. Lane. Osborne came and told me so, and my son.

L. C. J. You were not by?

F. Lane. No, not I; but, said he, as he told me, I will go to him again; and afterwards he did meet him again, as he said, and delivered them to him.

Mr. *Withins*. Did you ever see Knox in your life?

F. Lane. I had never seen him then.

Mr. *Withins*. Did you ever hear your son say, he did know Knox before that time?

F. Lane. Never in my life.

Justice *Pemberton*. But you do not prove that they were not acquainted.

L. C. J. Do you believe Osborne said true, Mr. Saunders?

Mr. *Saunders*. Not when he spoke to sir W. Waller to accuse my client of the contrivance.

L. C. J. In that case, when it is against your client he did not, but in other cases he might; well, go on.

Mr. Withins. Which is Mary Lane?

Mary Lane. I am she, Sir, I can say no more than my mother hath said, I was by at the same time.

Mr. Saunders. Do you know when John Lane came acquainted with Knox? was it before April last, or after?

Justice Pemberton. How is it possible that any one can swear a negative?

Mr. Saunders. If we can't prove the negative, nor they the affirmative, it will be presumed they were not, because it is not known.

Justice Pemberton. Nor do you prove any informations before given to any one.

Mr. Saunders. Yes, to Thewer.

Mr. Withins. We will ask the daughter about that.

F. Lane. She can only prove it by hearing it, for she was sick.

Mr. Withins. Young Mrs. Lane, what was there in that paper that Osborne brought to your house?

M. Lane. There was concerning the king, and the queen, and my Lord Treasurer.

L. C. J. Was there any thing in it concerning Mr. Oates?

M. Lane. Yes, there was, concerning his beastliness.

Justice Pemberton. Who read it?

M. Lane. Osborne I did hear read it.

Mr. Saunders. Your brother was not acquainted with Knox then?

Justice Pemberton. How can they tell that? it is impossible.

L. C. J. The nature of the thing is such, that it can be proved no otherwise. But it seemed to them that they were of no acquaintance; it is hard to prove when an acquaintance begins.

Mr. Saunders. And further than this we cannot go in such a case; for that thing of the great sums of money, certainly it was as little a thing as could be; there was no more in the case than a guinea, and ten shillings, and three half crowns, as proved, and he was cheated of them, it seems, for they would not do the work.

Mr. Scroggs. It is an improbable thing that he should be so poor as to sell the handle of his sword, and yet be engaged in the management of such a plot, and not have money for it.

L. C. J. There is no great store of money appears to be given to Lane, but he was kept upon a mean maintenance.

Justice Jones. But it was not without expectation of a reward.

Justice Pemberton. He tells you the wages was to be paid when the work was done.

L. C. J. And when the roguery was discovered, they had no more money then.

Justice Pemberton. When the business came to be controverted thus, they had no reason to give it.

Mr. Saunders. Though Lane had maintenance, yet our client Knox was not taken such care of; still there was provision made for him, but none for us, because we were drawn in and did not contrive it.

Justice Pemberton. But remember, Mr. Saunders, by the same hand there were 40s. given at one time.

Mr. Withins. Well, my lord, we have done: we say, that we had no part in the malice of the contrivance, and therefore ought not to be punished with them.

L. C. J. Well, Mr. Holt, what say you for Lane?

Mr. Holt. My lord, I am assigned of counsel for the defendant Lane. I have no witnesses at all to examine, but only shall make some little observations upon the evidence that is given for the king. As for the indictment itself, though it is not several crimes, but one complicated crime; yet the evidence that is given is only to one part thereof; and therefore I submit it to your lordship, if the proof be proportionable to the charge, and whether the defendant ought not to be found Not Guilty. There hath been great mention made of the writing letters, yet it would be hard that the defendant should be found Guilty of such an offence, when the proof does not come up so high; that would introduce a severer punishment than the crime proved would justify.

Justice Pemberton. Pray, Mr. Holt, don't go away with that; I must set you right a little there: The crime that is laid is, To discountenance the king's evidence, and to make them that they should not be believed. The means are several, partly by casting of crimes upon them, partly by writing letters; that crime is another thing, and therefore if they do not find them Guilty of every one of the particular means, yet the crime must be found.

L. C. J. You are in the right thus far, Mr. Holt; they have laid the indictment, That they endeavouring to disparage the credit of Oates and Bedlow, have, for money's sake, and by promises and contrivances, and writing of letters, wherein was scandalous matter against Oates and Bedlow; they thereby did attempt to discredit them. Now say you, if this matter be not proved, that there was any scandalous matter concerning Oates and Bedlow, then the contrivance is not proved: but what though all the facts in the indictment are not proved, yet if there be enough to prove your contrivance to discredit them; and if you suppose the evidence true that is given, it rests, I think, plainly upon your client, and you cannot get off from it: but if there be not sufficient proof to maintain the indictment for the crime of endeavouring to discredit Oates and Bedlow, unless they prove the letters also, you say something; but there is the business that sticks on you, they have proved enough without that.

Mr. Holt. If the jury do not find them Not Guilty generally, may they not find them Not Guilty of writing the letters?

L. C. J. No: For if the other part of the evidence did not amount to a proof of a design of disparaging their testimony, you had a very strong objection of it: but if they lay five things, and they prove but one of them upon you; if that one serves to the disparaging of Oates and Bedlow, which is the substance of the indictment, that maintains the indictment.

Mr. Holt. It does so, my lord; but not the aggravations.

L. C. J. All that you say then is in mitigation of a fine; but if all be true that is proved upon your client, as I see no reason to doubt it, you will save but little by this defence.

Mr. Holt. My Lord, as to the matter, it all depends upon the credit of the witnesses, and credibility of the circumstance in themselves, and one with another. Some of the evidence is but very slight, and sure were but produced to spend time.

L. C. J. Indeed there was a great deal of it to little purpose: for ought I see, this trial needed not to have been above an hour.

Mr. Holt. As for his saying he should have 100*l.* a year, and the bettering of his fortune, it was but his vanity and extravagance.

L. C. J. *Mr. Holt* does argue as much for his client as the case will bear.

Mr. Holt. They have endeavoured to lay all upon us; now if so be we are affected with any severe evidence, I think the same evidence (to requite them) does affect them.

L. C. J. This is a kind of battle-royal, where every one hath two enemies to oppose.

Mr. Holt. Here is *Mr. Dangerfield*, he comes, and in his evidence tells you, That my lady Powis was so long upon her knees to thank God that her party was so much strengthened by the accession of Lane: My lord, I desire the quality of *Mr. Lane* may be taken notice of; a footman and a young rash fellow, one that both for age and quality could not be very considerable.

L. C. J. But two witnesses are better than one, *Mr. Holt*; do you remember that? *Knox* used that expression, If Lane do but keep firm, we shall be too hard for Osborne alone, for two witnesses are better than one; but by that he counted Lane worth something.

Mr. Holt. You must consider, what he was to swear, they could scarce get an evidence so proper for what they would have him swear.

L. C. J. *Mr. Williams*, what answer can you give to all the transactions that *Mr. Dangerfield* tells you of about *Knox*? Besides, take notice of this; you would have this to be a contrivance by Lane and Osborne, to be between themselves, and that your client must be a stranger to it; and when he comes to know it, he knows it only as a remorse of conscience that they tell him they have, and desire him to go with them before a justice of peace to swear it, and he hearing something that might affect his master the earl of Danby, and believing that all was true, did encourage that matter only for his master's service, and thought he did a good act in it. But your subsequent behaviour shews it was a conspiracy rather; for,

first, your secret ways of sending your cunning notes, 'We all clubbed together, and you paid 2*s.* at the Sugar-loaf, tear this;' which shews, and does to my apprehension signify, as if he would never own that he spent any thing upon them, and that he was bountiful to them. And then the giving of money to the man to convey notes, that they might not betray one another; do not all these subsequent actions, especially those *Dangerfield* tells you of, and receiving the papers after they were enlarged upon, speak it a conspiracy? What can you say to all this?

Mr. Williams. My lord—

Justice Pemberton. Stay a little, and answer all together. Do but consider with yourself, those informations your client *Mr. Knox* did own he took, and before they were sworn, and carried them to my lord Latimer's lodging, and he himself owns that he took lodgings for them, and lay with them, and when the lords were in pursuit of them.

L. C. J. And then does he steal them from place to place, and takes lodgings for them; and pays for them.

Justice Jones. He brings one of them to make affidavit, and will keep it by him, is shy of showing it; afterwards does show it, this makes him a contriver too, as well as an executor.

Mr. Saunders. If your lordship please—

Justice Pemberton. Consider too the papers that were put in too of caution, that *Knox* and they should not be found in several tales; for *Knox* had been examined before they were: what was the meaning of those instructions?

L. C. J. If you have any witnesses to wipe yourselves clean from the matter of receiving the papers from *Dangerfield*, and taking lodgings for them when they were under that accusation, do.

Mr. Saunders. I have a word to answer upon the testimony of *Mr. Dangerfield*.

Justice Pemberton. Consider this, that he attempted another man upon the same account; your client did tempt *Wiggins* to do the same thing to his master.

Mr. Saunders. That was in February before, and all that he said was, that he would have had out of *Mr. Bedlow's* servant, what company his master kept, and what he did.

L. C. J. You do observe right.

Justice Pemberton. And to have betrayed his papers to him.

L. C. J. That does not reach this indictment indeed; but that thing that he would have tempted him to, was to have discovered, and to have a transcript of all the papers that concerned my lord of Danby; that he should watch his company, and know what lords were with him, that he might make his opposition as well as he could, and that he should have what place he did desire under my lord. It does not affect the case of the indictment, but it shews you are a tempter of men, and that you are a cautioner, that you would hire a man to betray his master's papers, which is not fair, let the master be who he will.

Justice *Pemberton*. It facilitates the belief of this.

L. C. J. Yes; Ay, ay, it is to make the jury more apt to credit what the evidence of this particular fact is.

Mr. Saunders. My lord, let me offer this word, and I submit: Mr. Dangerfield himself does swear, that Lane brought him a paper containing the same matter that he did falsely accuse Mr. Oates of, and he read it over three times to him, and then he swore it before sir James Butler. My lord, I will put my cause upon that point, Whether Mr. Dangerfield did not believe it to be true at that time.

Justice *Jones*. Your client is the more mischievous man, to contrive it so, as to make the thing to be believed when it was false.

L. C. J. The use of the argument he makes is this; that as Mr. Dangerfield might be deceived into a belief that the information was true, so might Mr. Knox as well when he saw one ready to swear it: but hath Dangerfield done those subsequent acts which he hath done in the confederacy, for which he is now indicted?

Mr. Saunders. He swears in his information, that they came to his hands from Lane and Osborne.

L. C. J. Well gentlemen, you of the king's council and of the jury, you need not any summing up of the evidence, I think the thing is evident.

Justice *Pemberton*. Gentlemen, it is a very

clear case, as clear as the day; I think you need not go from the bar; but do as you will.

[Then the Jury laying their heads together, agreed without delay, and without moving from the bar.]

Cl. of Cr. Gentlemen, are you all agreed of your verdict.

Omnes. Yes.

Cl. of Cr. Who shall say for you?

Omnes. Foreman.

Cl. of Cr. How say you, are the defendants guilty of the offence and misdemeanour whereof they stand indicted, or Not Guilty?

Foreman. Guilty. [At which the people gave a great shout.]

Serjeant Maynard. My Lord, I pray the verdict may be recorded.

Justice *Jones*. Let it be so. Come, where are these two young fellows? Let us see if they can shew their faces now. [And they were brought into the middle of the court.]

Knox. Will your lordship give me leave to speak one word for myself?

Justice *Jones*. No, no, there is no speaking now; take them into your custody, Marshal.—Which was done, and the Court broke up.

They were afterwards sentenced: Thomas Knox to a fine of 200 marks, a year's imprisonment, and to find sureties for his good behaviour for three years. John Lane to a fine of 100 marks, to stand in the pillory for an hour, and to be imprisoned for one year.

259. The Trials of LIONEL ANDERSON alias MUNSON, WILLIAM RUSSEL alias NAPPER, CHARLES PARRIS alias PARRY, HENRY STARKEY, JAMES CORKER, WILLIAM MARSHAL, and ALEXANDER LUMSDEN,* with the Arraignment of DAVID JOSEPH KEMISH, at the Old Bailey, for High Treason, being Romish Priests, 31 CHARLES II. A. D. 1680.†

ON Saturday the 17th of January, 1680 at the Sessions-house in the Old-Bailey, by virtue of his majesty's commission of Oyer and Termini-

* From a pamphlet entitled, "The Trials and Condemnation of Lionel Anderson alias Munson, William Russel alias Napper, Charles Parris alias Parry, Henry Starkey, James Corker, and William Marshal, for High Treason, as Romish Priests, upon the statute of 27 Eliz. cap. 2. Together with the Trial of Alexander Lumsden, a Scotchman, and the arraignment of David Joseph Kemish for the same offence. At the Sessions of Oyer and Terminer in the Old Bailey, on Saturday January 17, 1679. Published by Authority. London: Printed for Thomas Collins and John Starkey, Booksellers, in Fleet-street, near Temple-bar, 1680."

† "The three lords, (Sunderland, Essex, and Halifax) and I," says sir William Temple, "thought of such acts of council as might express his majesty's care for suppressing Popery

ner and gaol-delivery of Newgate, for the county of Middlesex and city of London, the persons hereafter named were arraigned and tried.

even in the intervals of parliament. We only disagreed in one point, which was the leaving some priests to the law upon the accusation of being priests only, as the House of Commons had desired, which I thought wholly unjust without giving them public warning by proclamation to be gone, or expect the penalties of law within such a time; since the connivances had lasted now through three kings reigns. Upon this point, lord Halifax and I had so sharp a debate at lord Sunderland's lodgings, that he told me if I would not concur in points which were so necessary for the people's satisfaction, he would tell every body I was a Papist. And upon his affirming that the Plot must be handled, as if it were true, whether were so or not, in those points that were generally believed by city or country, as we

And after the usual proclamation for attendance was made, the court proceeded in this manner :

as both Houses : I replied with some heat that the Plot was a matter long on foot before I came over into England ; that to understand it one must have been here to observe all the motions of it ; which not having done, I would have nothing to do with it." *Memoirs, Part 3. See sir W. Temple's Works, vol. 1, p. 339, fol. edit. of 1740.*

The desire of the House of Commons referred to in this passage was expressed in an Address which was voted on the 16th of Nov. 1678, which will be found below.

So early as the year 1675, the Popish Priests resident in England had reason to apprehend that the 27th of Eliz. would be enforced against them. It appears by the Journal of the House of Commons, that

" November 8, 1675.

" Information being given to the House, of a very high insolence and violence committed upon M. de Luzancy, a convert of the Protestant religion, by one St. German, a Jesuit, and others, his confederates ; and a Narrative in writing being tendered, and read, giving a particular account of the whole matter :

" Resolved, &c. That a Committee be appointed to take the said Narrative, now read, into consideration, and to examine the matter and report it, with their opinions, to the House : and also to consider of such ways and means as they shall find necessary for securing and encouraging of converts to the Protestant religion, and to bring in a bill to that purpose ; and also to examine, what Priests or Jesuits have been of late years committed or convicted ; and by what warrants, and by whom procured, they have been released, reprieved, or pardoned ; and to report the whole matter to the House, with their opinions therein : and it is referred to lord Cavendish, and 32 other members, or any five of them ; and they are to meet this afternoon, at three o'clock, in the Speaker's chamber ; and to send for persons, papers, and records.

" Resolved, &c. That the Lord Chief Justice of England be desired forthwith to issue his warrant for the apprehending St. German, the Jesuit, and his confederates ; and for searching for, and apprehending, all priests and Jesuits whatsoever."

" On March 27, 1678, the House of Commons being informed, That mass is publicly said in several places within the county of Monmouth ; and that there is one Mr. Arnold at the door, ready to make the same out. A Paper, containing an information of several Popish Priests and Jesuits, and the persons that do countenance and support them, was delivered in to Mr. Speaker. Mr. Arnold was called in to the bar of the House ; and asked divers questions by Mr. Speaker, touching the matters contained in the Paper delivered in to

Cl. of Cr. Keeper, set David Joseph Kemish to the bar. [Which was done.] David Joseph Kemish, hold up thy hand. [Which he did.]

Mr. Speaker ; and also touching several other things ; and having given his answer, and being withdrawn, one captain Scudamore was called in to the bar ; and asked several questions, by Mr. Speaker, concerning one Elliot, a popish priest, formerly committed to gaol by the said captain Scudamore. And he having given his answer, and being withdrawn,

" Ordered, That the Thanks of this House be given to Mr. Arnold and Mr. Scudamore, for their informations this day given to the House of the growth of popery.

" And Mr. Arnold and Mr. Scudamore being called in to the bar of the House, Mr. Speaker did, in a short and eloquent speech, give them the thanks of the House accordingly.

" And it was Resolved, That a Conference be desired with the Lords, concerning the danger the nation is in by the growth of popery, and for providing remedies to prevent the same.

" An Address of the 20th of February, 1670, touching the growth of Popery, with heads and reasons thereto, was read. Resolved, &c. That it be referred to a Committee to consider of the said Address and Heads ; and thereout, and upon the debates of the House, to prepare and draw up Reasons to be offered at the said Conference."

" On the 29th of April following, the House proceeded to the consideration of a report made by sir John Trevor : which was read by the clerk, and is as followeth :

" The first Head ;

" The Names of Popish Priests ; by whom kept ; the Chapels, and other places where mass is said, and resorted to, in the county of Monmouth.

" 1. John Arnold, of Llanvihangell, in the county of Monmouth, esq. late a justice of the peace there, by his examination saith, that he hath known Mr. David Lewis* for seven or eight years ; who hath been for all that time, and before, reputed a Jesuit, and Provincial of the Jesuits, in the county of Monmouth : That for several years past, he lived Llantarnam house, then in jointure to the lady Morgan ; which by her death, about two years since, came to sir Edward Morgan ; where the said David Lewis publicly said mass, as he hath been credibly informed by persons that were present thereat. He likewise says, That he hath seen the chapel, altar, and ornaments in the said house, for the celebration of mass : That the said David Lewis lives now near Llantarnam aforesaid ; and doth also, as he hath been informed, say mass at a popish chapel, near Mr. Gunter's house in Abergavenny town.

" 2. Charles Morgan, gentleman, by his examination upon oath, saith, That David Lewis,

* See his Case, *supra*, p. 250.

Thou standest indicted by the name of David Joseph Kemish, of the parish of St. Giles's in the fields, in the county of Middlesex, clerk; for that thou being born within the dominions

a popish reputed priest, doth often frequent the house of one Mr. Thomas Gunter, of Abergavenny.

"3. William James, by his examination upon oath, saith, That he hath known David Lewis to be a popish priest this 16 years; and believes him to be the superior of all the Jesuits in North and South Wales: he and his wife have received the Sacrament of him; hath seen him administer it to above 100 persons; hath seen him christen several children, and marry several persons at a chapel in Llantarnam house, and at the houses of Andrew and Edward William: That a great number resort to Llantarnam to hear mass. Deposeth further, That he hath given several angels to the said David Lewis, to pray for the soul of his father-in-law, after he was dead: and that his father-in-law told him and his wife, that he was fain to give 50*l.* to the said David Lewis, to be disposed to pious uses; and that if he did not give it, he should neither have the sacrament, nor absolution. And he further saith, That he knoweth Wm. Cornelius, who hath officiated as clerk at mass to the said David Lewis, this 15 or 16 years: and that the said Wm. Cornelius was both a constable and churchwarden for the parish of Langatuck.

"4. Dorothy, the wife of Wm. James, deposeth, That she hath known David Lewis to be a popish priest these 20 years; hath seen him say mass at Llantarnam, and elsewhere; she and her husband having received the sacrament from him; and hath seen him administer it to several persons; and marry and christen several times: she knoweth, that one William Cornelius hath officiated as clerk to the said David Lewis, for 16 years past, and above.

"5. Mr. Arnold says, That he hath known captain Syliard four or five years: that he hath been informed by the minister of Lanarth, and others, That he is a Romish priest, and doth openly say mass in that parish; to which great numbers do resort: that most of the parish are papists.

"6. Thomas Watkins, vicar of Lanarth, upon his oath, deposeth, That one Syliard, a reputed popish priest, resides in the said parish.

"7. Mr. Charles Morgan, upon his oath, saith, That the said Mr. Syliard, a reputed popish priest, lives with Mrs. Jones, of Lanarth, widow.

"8. Mr. Arnold says, That Mr. Harris alias Price, is reputed to be a popish priest.

"9. Thomas Watkins, of Lanarth, upon his oath, deposeth, That Walter Harry alias Price, is a reputed popish priest; resideth in Clitha, a hamlet in Lanarth, in the house of Mrs. Christian Milburne: That there are above 80 reputed popish recusants, besides children and servants, in that parish: That he hath been informed, that the said Price says mass, mar-

ries and christens in the said parish; and being a priest, made and ordained by authority derived from the see of Rome, after the feast of the Nativity of St. John Baptist, in the first year of

of our sovereign lord the king, and being a priest, made and ordained by authority derived from the see of Rome, after the feast of the Nativity of St. John Baptist, in the first year of

"10. Mr. Samuel Watkins, vicar of Lantilio-Gresseny and Penrose, in the county of Monmouth, upon his oath, says, That Mr. Walter Harries alias Price, and another Mr. Harries, say mass at William Pullen's house; and likewise do often christen.

"11. Mr. Aron Lewis, of Landigua, in the county of Monmouth, upon his oath, says, That several persons have informed him, that Walter Harries alias Price, is a popish priest, and had christened several of their children; and that the said Price said mass publicly; and that he lives in the house of Mrs. Catherine and Christian Milbourne.

"12. Alice, the wife of the said Mr. Aron Lewis, upon her oath, saith, That she knoweth the said Mr. Walter Price to be a popish priest: Hath seen and heard him say mass 40 times; hath received the sacrament from him; hath seen him administer it to a hundred more; hath seen him often marry and christen; hath perverted several Protestants from the Church of England to the Church of Rome; as James Prichard and Catherine his wife, Charles Watkins and Margaret his wife, and the wife of William Arthur, and several others.—She further saith, that she hath seen above 100 at mass at one time, at Mrs. Christian Milborne's house; and that the crowd was so great, that the loft was forced to be propped, lest it should fall down under the weight: That she hath confessed her sins to the said Price; and that he gave her absolution.

"13. William Lewis, of Ragland, in the county of Monmouth, upon his oath, saith, That he hath seen Mr. Price, who doth, or lately did live at the house of Mrs. Milborne, say mass, and preach in Welch: That the said Price did earnestly endeavour to turn him from the Church of England to the Church of Rome; telling him, that he should never see the face of God, unless he would be of their way.

"14. Mr. Roger Seys, upon his oath, saith, That the said Walter Harry, alias Price, is a popish priest: And that he was present when it was proved before a justice of the peace, that the said Price had said mass.

"15. William James, upon his oath, saith, That he knoweth Walter Harries, alias Price, a popish priest; and hath seen him at mass; hath heard him say mass: And that he is entertained at Mrs. Milborne's house in Clitha.

"16. Mr. Arnold says, That he hath been very credibly informed, that one Dr. Pugh says mass publicly in the house of Mr. Thomas Rodnam of Blackebrook, both when Mr. Rodnam is at home, and when he is absent: That he hath been informed, that Walter James, esq. suffers one John Lloyd, a reputed priest,

the reign of Queen Elizabeth, and before the 15th of November, in the 30th year of the reign of our sovereign lord the king that now is, The laws and statutes of this kingdom of England

to say mass in his house at Treivor: That he hath seen a chapel at Llanvaire in the house of Turbervill Morgan esq.; and an altar and ornaments in it: And he hath been informed, that Thomas Lloyd, a popish priest, saith public mass, marries, christens, and buries in the said chapel.

" 17. Mr. Samuel Watkins, vicar of Llantilio-Gresseny, Penrose, upon his oath, saith, That Mr. Lloyd, a reputed popish priest, says mass at the house of Turbervill Morgan, esq., in his parish: That there are three other houses in his parish, where reputed popish priests are entertained; and say public mass: And that there are in the parishes of Llantilio-Gressing, and Penrose, sixscore popish recusants.

" 18. Mr. Arnold says, That he hath been informed by the minister and several witnesses that Mrs. Scudamore of Penrose, widow, suffers public mass to be said in her house; and that great numbers resort thither.

" 19. Mr. Samuel Watkins, vicar of Penrose, upon his oath, saith, That one Mr. Lloyd, a reputed popish priest, is entertained at the house of one Mrs. Winifred Scudamore: And that he hath seen him there, and a great number of popish recusants resorting thither upon Sundays and holidays, to hear mass, as he conceiveth; and he verily believes, all her children were christened by popish priests.

" 20. Mr. Arnold says, That he hath seen a public chapel near the house of Mr. Thomas Gunter, a papist convict in Abergavenny, adorned with the marks of the Jesuits on the outside: and is informed, that mass is said there by captain Evans, a reputed Jesuit, and by the aforesaid David Lewis; that very great numbers resort to the said chapel, and very often at church time: And he hath credibly heard, that 100 have gone out of the said chapel, when not 40 have gone out of the great church: And that the said chapel is situate in a public street of the said town; and doth front the said street.

" 21. Mr. Greenhaugh, vicar of Abergavenny, and Lantilio Bartholy in the county of Monmouth, upon his oath, saith, That on Sundays and holidays he hath seen great number of Roman catholics resort to the house of Thomas Gunter at Abergavenny: And that the said Gunter entertains one capt. Evans, whom he supposeth to be a popish priest: That there is the public marks of the Jesuits on the outside of the building; which is directly towards the parish church; and he is informed is their chapel: And that they have in that house all the formalities and ornaments unto a chapel belonging; with mass on Sundays, and other holidays. He deposeth, that there have been many marriages and christenings in both the said parishes, by popish priests: And further, that the

not regarding nor the penalties in the same contained any ways fearing; the said 15th day of November, in the 30th year of the king aforesaid at the parish of St. Giles's in the

said Thomas Gunter told him that in Oliver's time of severity he kept a priest, and would keep one now: That many times corps came to be interred, with the formalities of white crosses upon them; and, endeavouring to hinder the said superstition, he hath been often abused: That he hath informed John Arnold, esq., and other justices of the peace, of public mass said there; and other enormities of the papists.

" 22. William James aforesaid, upon his oath, deposeth, that he knoweth Philip Evans, commonly called captain Evans, a popish priest, entertained by Mr. Thomas Gunter, at his house in Abergavenny.

" 23. Mr. Arnold says, That the persons who commonly go under the names hereafter mentioned, do often change their names, and are called by other names; and are reputed to be itinerant priests in the counties of Hereford and Monmouth; and do usually officiate in ten miles compass; viz. Mr. Draycott, Mr. Elliot, captain Pugh, Dr. Pugh, Mr. Ryder, Mr. Morgan, Mr. Lloyd, Mr. Williams, Mr. Parry, Mr. Jones, Mr. Harries who is said to be superintendent of the Combe, Mr. John Hall, Mr. Thomas Powell, Mr. Harries, alias Price, Mr. Thomas Andrews.

" 24. Tho. Watkins, vicar of Llanarth, upon his oath, deposeth, That Thomas Andrews a reputed popish priest, says mass very often at William Davie's house of Bettus, as he hath been informed.

" 25. Mr. Sam. Watkins, vicar of Lantilio-Gresseny, upon his oath deposeth, That Mr. Thomas Andrews, a reputed popish priest, is entertained at Mr. Anthony Powell's at Kil-lough; where he hath seen him: And that he says public mass there: And that Mr. Hall a reputed popish priest, is entertained at Mr. James Prichard's house of Blean Llyman, where mass is publicly said: And he hath been informed, that another reputed popish priest, called Mr. Laurence Watkins, frequents the house of Mr. Walter Powell.

" 26. Mr. Roger Scys, upon his oath, deposeth, That he heard it proved before several justices of the peace of the county of Monmouth, that Mr. Lawrence Watkins was a popish priest, and did officiate at the house of Mr. Charles Scudamore, deceased: And further deposeth, That Thomas Powell, a reputed popish priest, liveth at the house of the lady Jones of Treowen, which is distant about a quarter of a mile from the parish church of Dingeston; to which church, as he is informed there do not resort above sixteen or twenty persons, or thereabouts; when there do resort to the house of the said lady Jones threescore or thereabouts: all which do pass and repass through the said church yard of Dingestow, at the time of divine service.

" 27. Mr. Charles Morgan, upon his oath,

fields, in the county of Middlesex aforesaid, traitorously, and as a false traitor of our sovereign lord the king, thou wast and didst remain and abide, against the form of the statute in this case made and provided, and against the peace of our sovereign lord the king, his crown

deposeth, That Mr. Williams, a reputed popish priest, frequenteth a house called Lantrothy.

"28. Mr. Arnold says, That he hath seen hundreds of papists meet on a high hill, called St. Michael's Mount, where is frequent meetings, eight or ten times in the year, as he is informed, Mass said, and sometimes sermons preached there.

"29. John Scudamore, of Kentchurch in the county of Hereford, esquire, saith, That he hath seen very great numbers of people at their devotion, on the top of a high hill in Monmouthshire, called St. Michael's Mount, where there is a ruinous chapel, and a stone with crosses upon it, which he took to be an altar: And he hath seen people with beads in their hands, kneeling, toward the said stone, both within and without the said chapel: And he hath seen them there several times himself. And he hath been informed they do constantly assemble there at several times of the year: And he hath been informed, that mass is often said there: And some papists have affirmed in his presence, that they have heard as good sermons preached there, as ever they heard in their lives.

"30. Mr. Arnold saith, that he knoweth, that Combe-house in Herefordshire, and several lands belonging to it, of a considerable value, is commonly reputed to be a convent of Jesuits: And he hath heard some of the papists themselves call it the college of the Combe: And he hath been informed, that there are commonly five or six Jesuits residing there: And there is a public chapel; and mass constantly said therein.

"31. Mr. Scudamore says, That at a house called the Combe, in the county of Hereford, several priests are maintained and kept there: And that it is commonly reported, that it is a house or college for that purpose.

"32. Wm. James of Langatuck, in the county of Monmouth, upon his oath deposeth, That he heard several of the popish priests say, That, if they could not live in those parts, they would repair to the Combe in Herefordshire: And believes the said Combe to be a convent; and that the lands thereunto belonging belongs to the priests; and that they do keep, or lately did keep husbandry there.

"33. Mr. Charles Morgan, upon his oath, deposeth, That Combe house in the county of Hereford, near the dwelling house of Harry Milburne, esq. a justice of the peace, is reputed to be a popish convent, where several popish reputed priests did lately inhabit; viz. Mr. James, Mr. Humfreys, Mr. Draycott, and Mr. Harries.

"Three worthy members of this house living in and near Herefordshire, informed the committee, That Combe house aforesaid, and the

and dignity. How sayest thou, David Joseph Kemish, Art thou Guilty of this High-Treason whereof thou standest indicted, or Not Guilty?

Kemish. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Kemish. By God and my country.

lands thereunto belonging, is commonly reputed to belong to the popish priests.

"The Second Head.

"The Names of the Justices of Peace and others, that are Papists or suspected Papists; and their proceedings in favour of Popish Priests and Popish Recusants.

"1. Mr. Arnold saith, That he knoweth sir Edward Morgan, of Llantarnan in the county of Monmouth, baronet; that he hath seen in his house of Llantarnan a popish chapel, with altar and ornaments therein for the celebration of mass; wherein mass is said, as he hath been informed by such as have been present thereat: That he hath heard the said sir Edward Morgan affirm himself to be a Roman Catholic: That he is yet continued in the commission of peace, and is reputed to be a deputy lieutenant.

"2. Mr. Arnold says, That, about ten years since, he knew William Jones, of Llanarth, esq.; that he was a justice of the peace, and deputy lieutenant of Monmouthshire; hath been informed by a worthy member of this house, that before and at the time of his death he was a papist: He hath heard some papists brag, that he died a papist; and that his son is now bred in a college of Jesuits in France, or elsewhere in foreign parts: He says, That he hath been informed, by the minister and others, that most of that parish are papists: He says, That though several warrants have issued from the justices, to have accounts of defaults for not coming to church; no returns could be had for these two years last past, the churchwardens and constables being papists.

"3. Mr. Thomas Watkins, vicar of the parish of Llanarth, upon his oath, says, That there are above fourscore reputed popish recusants within this parish, besides children and servants; three reputed popish priests residing and officiating there, to wit, one Syliard, who was lately tutor to Mr. Jones's two sons, who are now beyond seas, as he verily believes, one Walter Harries, residing at Mrs. Milborne's house at Clitha, a hamlet of Llanarth; and one Andrews, at Bettus.

"4. Mr. Charles Morgan, upon his oath, deposeth, That Mr. Syliard, a reputed popish priest, lives with Mrs. Jones of Llanarth, widow to Mr. William Jones of Llanarth, who was a justice of peace.

"5. Mr. John Greenhaugh, vicar of Abergavenny and Llantilio-Bartholy in the county of Monmouth, upon his oath, deposeth, That there is, or hath of late been, one Mr. Evans, a reputed popish priest, entertained at the house of Charles Proger, esq., in the said parish of Llantilio, who is a justice of peace; That he

Cl. of Cr. God send thee a good deliverance.

Kemish. I cannot speak, I am not able to stand upon my legs a quarter of an hour.

L. C. J. (Sir William Scroggs) What does he say?

Captain Richardson. He says he is so ill and weak he is not able to stand.

L. C. J. Then he must have a stool.

hath seen great numbers of men and women resort thither to mass, as he conceives.

"6. Mr. Arnold says, That he hath been informed, that Mass was very lately and publicly said at Llantrothy, a house belonging to Rowland Prichard, esq., now a justice of peace of Monmouthshire; where one Thomas Elliot a popish priest, formerly committed to Hereford gaol as such, doth officiate: That he informed the said Mr. Prichard of it; and that it was dangerous to him, and scandalous to religion, for him to suffer it: The said Mr. Prichard answered, That he had ten pounds rent extraordinary for it; and that would do him more good than the scandal could hurt him: That Mr. Prichard is nephew to Mr. Harry Milborne.

"7. Mr. Charles Morgan, upon his oath, deposeth, That he hath credibly heard, that Rowland Prichard, esq. hath ten pounds per annum more, for his house at Lantrothy, for suffering one Mr. Williams, a reputed popish priest, to be there sometimes.

"8. Mr. Arnold says, That he knows Harry Milborne, esq. to be a justice of peace in four counties, whereof Monmouthshire is one: and that he the said Milborne, ever since he came into the commission of the peace for Monmouthshire, hath kept papists for his clerks, who received and kept all presentments: One of them called Bowyer, was indicted for treasonable words at Hereford assizes, of which the Herefordshire members can give a more perfect account; the other named Peter Roberts, a papist convict: the said Mr. Arnold says, and Henry Probart, esq. upon his oath, deposeth, that they both as justices of the peace of the county of Monmouth, on the 17th day of April, 1677, did often tender the oaths of allegiance and supremacy to the said Peter Roberts; which the said Roberts, with contempt, did refuse to take: that they both required the said Mr. Milborne, being then present, to join with them in the tender of the said oath, and in committing the said Roberts: which he refused: whereupon the said Mr. Arnold and Mr. Probert did by warrant and mittimus, commit the said Roberts to one Hugh Powell, one of the chief constables for the hundred of Skenfrith; to convey him to his majesty's gaol: whereupon the said Harry Milborne did lay violent hands upon the chief constable, and pushed him away, whilst the said Roberts made his escape; and bid the said Roberts begone: which he did accordingly; and though he was pursued, yet did escape.

"The said Mr. Arnold further says, That

Kemish. I am not able to speak in my own defence, and I have had no time to prepare myself.

L. C. J. Captain, he shall speak softly to you, and you shall report it to the court again.

Captain Richardson. You may speak softly to me, and I will give an account what you say.

L. C. J. How will he be tried? ask him.

he had often heard the said Mr. Milbourne, at privy sessions, both discourage constables from presenting of popish recusants, and also declare, that it was contrary to law to present them at a privy sessions: And that the law of 1 Eliz. was not intended against papists. He also knoweth, that the said Mr. Milborne, at the end of last Easter or Midsummer sessions did procure an order, that neither the said Henry Probart, nor himself, should act as justices in the hundred of Skenfrith, though no justice lived in the said hundred, and they live both near to it: and that the said Mr. Milbourne obtained another order of the quarter sessions, to vacate that they had done at a privy sessions, where they had convicted above 200 papists; the copies of which orders were denied him by the clerk of the peace and his clerks: and he verily believes, that the reason of making both their orders was, because the said Mr. Probert and himself, did their duty faithfully, and did put the laws in execution against the papists.

"9. Mr. Arnold says, That he knoweth, and Mr. Charles Morgan by his oath deposeth, that most of the said Harry Milbourne's family and household, are papists.

"10. And Mr. Arnold says, That he was present when one Mr. Roger Seys did demand of Mr. Milbourne, a warrant to apprehend one Walter Price, whom the said Mr. Seys offered to prove to be a popish priest, kept in the house of Mrs. Catherine and Mrs. Christian Milburne, sisters to the said Mr. Milburne: which the said Mr. Milburne not only refused to grant, but threatened the said Mr. Seys for demanding the same. And lastly he saith, that he hath been credibly informed, that Mr. Milburne is a trustee of many of the papists in Hereford and Monmouthshires.

"11. Henry Probart, esq. upon his oath saith, That Mr. Arnold with himself and others, kept a privy sessions in Llantilio-Gresseny in the county of Monmouth, where the constables presented a great number of popish recusants; but at the next quarter sessions there was an order made, vacating all that was done at the said privy sessions; though very little or nothing was done there, but about the presentment of papists: and further, That he doth in his conscience believe, that the said Mr. Milburne was the main agent and instrument of making and obtaining the said order.

"12. John Scudamore, esq. justice of the peace of Herefordshire, says, That having desired one Mr. Harry Milburne, a justice of peace for that county, to join with him in issuing out warrants to levy 12d. a Sunday on popish

Romish. I would desire my trial might be deferred till I be in a condition to answer for myself.

L. C. J. What say you, brothers, I think his request is very reasonable; he appears not to

recusants, he always refuseth so to do; affirming that the statute of 1 Eliz. was never intended against papists.—That he hath been credibly informed, That the greatest part of the family and household of the said Mr. Milburne, and great part of the parish within he lives, are papists; That he hath known two of Mr. Milburne's clerks, who received and kept all returns and presentments, and were both declared papists, the name of one being John Bowyer, who was tried at Hereford for treasonable words; the name of the other Peter Roberts, who is or was lately his clerk.

“13. Mr. Roger Seys and Mr. Lewis Price, upon their oaths severally depose, That they were present when John Arnold and Henry Probart, esqrs. did commit Peter Roberts, clerk to Mr. Milburne, for refusing to take the oaths of supremacy and allegiance: and that the said Mr. Milburne rescued the said Roberts out of the hands of the chief constable, who thereupon made his escape.

“The said Mr. Seys farther deposeth, That he, being churchwarden, did on the 17th day of April, 1677, demand a warrant from Mr. Milburne against Walter Harryes alias Price, a popish priest, who liveth with Mrs. Christian and Catherine Milburne, sisters to the said Milburne: which warrant Mr. Milburne refused to grant, but threatened him with opprobrious words, telling him, that he was a busy troublesome man, and that he would be upon his skirts.

“14. Lambert Miles, upon his oath, saith, That about the year 1675 or 1676, being petty constable of Llantillio-Gresseny, he went to Mr. Milburne, a justice of peace, with his presentment to be approved of and subscribed by the said Mr. Milburne; wherein several popish recusants were presented for not coming to church: That the said Mr. Milburne struck out, or caused to be struck out, several of their names; and the oath, that it was a true presentment, was omitted; he the said Miles refusing to take it, unless the names of the said popish recusants, struck out, as aforesaid, by Mr. Milburne, or his order, were inserted therein: That thereupon the said Lambert Miles never presented those struck out any more, nor swore to any presentment after, though he continued petty constable two years.

“15. Mr. Arnold saith, That he hath had it proved by oath before him, That Mr. Isaac Williams, who is coroner for part of the county of Monmouth, hath his children christened by a popish priest: And that his wife is a violent papist: And hath heard credibly, that mass is very often said in his house; and that very frequent meetings of Romish priests, and others of that religion, are held there.

be in a condition of taking his trial now, and Mr. Attorney is willing he should be set aside till next sessions.

Att. Gen. (Sir Creswel Levinz.) It is, I think, very fit, if your lordships please.

“16. Mr. Roger Seys, upon his oath, deposeth, That, he being churchwarden, Isaac Williams, one of the coroners of the county of Monmouth, did check him for putting the statute in execution against popish recusants for not coming to church; and told him, that it was pity to prosecute them, for they were honest people: And, by way of discourse, did hold many arguments with him, in vindication of the Romish religion.

“17. Mr. John Greenbaugh, vicar of Abergavenny, upon his oath, saith, That Mary the wife of Mr. Lewis Jones, was the only person in that town severely prosecuted for a Roman catholic, though there were many convict papists of greater ability in the town: And that it was done after her conformity and reconciliation to the church of England: And that her husband told him, that he had paid to the under-sheriff nine pounds ten shillings, notwithstanding his certificate, under his hand and seal, of her conformity.

“18. Mr. Scudamore says, That about five years since, he apprehended one Mr. Elliott, a popish priest, habited in his cope and other vests, in the act of the celebration of mass in a chapel in Herefordshire; wherein he observed an altar, lighted tapers, and several images: He asked the said Elliott, how he durst say mass so publicly, there being at mass above thirty persons, being there was a proclamation to the contrary: Mr. Elliott answered, That he knew of no proclamation; but demanded by what authority he took him, telling him that he should have no thanks for apprehending him. Mr. Scudamore saith, That he thereupon committed Elliott to the county gaol; and the next assizes caused a bill to be presented against him, which was found: But before his trial he was taken out of the gaol, and, as the under-sheriff informed him, he was moved to the Tower of London.

“19. It appeareth to the committee by the original records and papers produced before them, That the said John Scudamore did by his mittimus, dated the 17th of September 1671, commit the said Elliott, as a popish priest, to the county-gaol of Hereford, until he should be thence delivered by due course of law: That by warrant counter-signed by Mr. secretary Trevor, dated the 24th of January following, directed to Marshal Briggs, esq. high-sheriff of the county of Hereford, the said Elliot was brought up to London; in order to his delivery over to the lieutenant of the Tower: That, by warrant counter-signed by Mr. secretary Trevor, dated the 15th of February following, directed to the lieutenant of the Tower, the said Elliott was committed to the Tower until further order: And accordingly the said Mr. Elliott was delivered by the high-sheriff of

Justice Dolben. He must plead first. Have you recorded his plea?

Cl. of Cr. Yes, it is recorded.

L. C. J. Why then look you, Capt. Richardson, you must take him back; the court does

Hereford into the lieutenant of the Tower's custody. That, by warrant, counter-signed by Mr. secretary Trevor, dated the 4th of March following, the lieutenant of the Tower was commanded to enlarge and set at liberty the said William Elliott, first taking security from him to transport himself out of the realm into some parts beyond seas, within ten days next after such enlargement; and not to return into any of his majesty's dominions, without leave first obtained: That accordingly the said lieutenant took a bond, in his majesty's name, from the said Elliott, with two sureties in the sum of five hundred pounds; and thereupon set the said Elliott at liberty: That at the next assizes and general gaol delivery for the county of Hereford, the 24th of March following, the said William Elliott was indicted for being a seminary-priest; which indictment was found by the grand jury; and to which indictment John Marriott, John Cole, and Arthur Lister, were witnesses: who by their informations, taken upon oath, and produced to the committee by the clerk of assize, do severally depose, the apprehending of the said Elliott in the act of celebration of mass, as Mr. Scudamore hath set forth in his examination aforesaid.—The said Mr. Elliott, by his examination and confession, produced to the committee by the clerk of assize, and taken before sir Edward Harley, John Scudamore and William Gregory, esqrs., justices of the peace for the county of Hereford, says, That he was apprehended when he was at his private devotion; but confesseth, that there were then in the same room with him at devotion about six-and-twenty persons: That he was habited in a surplice, with a vestment over it. And, being examined, whether he was a priest, or in orders from the church of Rome, he refused to answer thereunto; but said, Let it be proved against me; I will not accuse myself.

“20. It appeareth to the committee, by the information of Mr. Joseph Newton, clerk of the peace, of Northumberland, That William Fenwick, esq. is lately put into the commission of the peace for that county: That he, being one of the commissioners in the Dodinus, did offer to swear the said Mr. Fenwick: But the said Mr. Fenwick refused, and told the said clerk of the peace several times, That he would not take his oath, as justice of peace.—The said clerk of the peace further informed the committee, that he was employed by Mr. Neale, and others of that county, to procure them to be put into the commission of the peace: That, to effect it, he applied to the lord chancellor's servants: who answered, That if those he solicited for, were papists, or suspected to be such, that it could not be done; whereupon he desisted in his solicitation,

think fit, and Mr. Attorney does think fit, by reason of his extraordinary infirmity that it is not seasonable to try him now. And that the world may not say we are grown barbarous and inhuman, we are all contented

“21. The knights for the county of Northumberland informed the committee, That, hearing that Mr. Fenwick was designed to be put into the commission of the peace, they both attended the duke of Newcastle, who is Custos of that county; and afterward attended the lord-chancellor; and informed both their lordships severally, That Mr. Fenwick was unfit to be put into the commission; for that he was a suspected papist, and would not act as a justice of the peace, if he were put in; That his wife died a profest papist; That his children were brought up in the Romish religion: and therefore they did desire both their lordships, severally, That Mr. Fenwick should not be put into the commission of the peace: That they likewise did desire their lordships, severally, that William Carnaby, esq. might be put into the commission of the peace; representing him to be a gentleman of estate, quality and loyalty in the county, professing the protestant religion, and every way qualified for that employment: But notwithstanding their applications and recommendation, Mr. Carnaby was refused to be put into the commission, and Mr. Fenwick was put into the commission; though they both informed their lordships severally, that Mr. Fenwick was formerly left out of the commission of the peace, because he was a papist, or a suspected papist.

“The Third Head.

“The Proceedings in the Exchequer against Recusants.

“It appeareth to the committee, that the lord-treasurer, the 25th of February 1674, issued his warrant to the treasurer's remembrancer, to issue commissions against Recusants, into all counties from whence any had been estreated; which were delivered to the judges to be recommended by them to the several commissioners in the several counties of their circuits.

“That the like warrant was issued the 22d day of July 1675, with commissioners' names, and instructions to them, to take and seize two third-parts of all the lands of Recusants; declaring his majesty's pleasure to refuse the twenty pounds a month, imposed on Recusants for not coming to church, and to accept of two third-parts of the lands of Recusants; directing the returns to be made with all speed; and writs of attendance and assistance to the several sheriffs, mayors, and officers, to attend the commissioners in the execution of the commissions: That, as estreats out of other countries came in, the like warrants issued: And those commissions were, by messengers of the Exchequer, delivered to the clerks of the peace of the several counties;

he should be set by. Therefore let him be returned back, and in the mean time you must take care that he have that reasonable looking to as is fit for a man in his condition to have.

L. C. Baron. Acquaint him with what the court says to you.

with a letter from the lord-treasurer, recommending the execution of the said commissions.

"That the lord-treasurer afterwards, by advice of his majesty's counsel at law, the approbation of the chancellor, chief-baron, barons of the Exchequer, and of sir Charles Harbord, his majesty's surveyor-general, altered the former course and issued his warrant the 14th of March 1676; thereby directing writs to be issued to the several sheriffs, to seize two third-parts, as before, of the estates of Recusants.

"The 4th of July 1677, the like warrants issued, for writs to be made out, as well against all Recusants formerly, as then estreated; returnable in Michaelmas term following.

"It appeared to the committee, That no convictions are estreated out of some counties, as Chester, Northampton, Oxford, Rutland, nor any out of Wales: That in other counties there are no executions done, either upon the commissions or writs, as Derby, the city of York, Hertford, Leicester, Nottingham, Norfolk, and Northumberland.

"The sheriff of Hereford stands charged with the sum of 412*l.* 7*s.* 10*d.* halfpenny half-farthing, for the lands of several Recusants, for one year and a half, ended at Michaelmas 1677. But the sheriff hath not finished his accounts: So that it did not appear to the committee, that any sum has been levied out of the Recusants estates in that county.

"It appeareth to the committee, That Rowland Prichard, esq. sheriff of the county of Monmouth, stood charged for the year ending at Michaelmas 1677, with nine seizures of the estates of Recusants; which amounted to 40*l.* that five of the nine were levied, which amounted to 4*l.* 13*s.* 4*d.*

"That, upon his petition, because illeivable, he was discharged of the other four, amounting to 35*l.* 6*s.* 8*d.* so that the sum that was answered into the Exchequer for that year, out of Recusants estates in that county was 4*l.* 13*s.* 4*d.*

"It appeared then to the committee, That the persons upon whom the five seizures were executed, were Protestant Dissenters, and not Popish Recusants; and that the four others, whereof the sheriff was discharged, were Popish Recusants.

"The sum wherewith the sheriff of Monmouthshire stands charged for the year ending at Michaelmas 1677, being for two-and-twenty seizures, amounts to 61*l.* 17*s.* 9*d.* farthing half-farthing: But the sheriff not having finished his accounts, it could not appear to the committee what could be answered into the Exchequer.

Capt. Richardson. I will, my lord.

Att. Gen. My lord, I desire that the judges may declare their opinion in it.

L. C. J. They have done so already, we do all consent to it; therefore take him, and go get him a bed.

"It appeared to the committee, That the sheriffs of London and Middlesex, for the year ending at Michaelmas, 1675, stand charged for the lands of Recusants with the sum of 100*l.* 3*s.* 4*d.* of which there is answered into the Exchequer 3*s.* 4*d.* for the lands of John Coffin, Recusant: The rest are all discharged by plea and judgment of court.

"The same sheriff stands charged, for the year 1676, for the lands of Recusants, with the sum of 566*l.* 3*s.* 4*d.* of which there is only answered into the Exchequer, the sum of 3*s.* 4*d.* for the lands of John Coffin, Recusant; the rest being all discharged by plea and judgment.

"The same sheriffs stand charged, for the year 1677, with the sum of 488*l.* 3*s.* 4*d.* but their accounts are not finished: So that it could not appear to the committee how much would be answered into the Exchequer.

"It appeared to the committee, That the yearly revenue out of Recusants estates in England and Wales, paid into the Exchequer for the year 1675, amounted to 78*l.* 5*s.* 6*d.* For the year 1676, it amounted to 535*l.* 5*s.* 10*d.*

"That the present yearly revenue out of Recusants estates, now in charge before the clerk of the Pipe, is 3,408*l.* 1*s.* 9*d.* half-farthing: But how much thereof will be answered into the Exchequer, could not appear to the committee; the sheriffs for this year being not yet opposed upon their accounts.

On the 16th of November, in the same year, the House voted the following Address to the King:

"May it please your Majesty;

"We your majesty's most loyal and dutiful subjects the Commons in Parliament assembled, having information, that Charles Mehaine hath continued in custody in the borough of Denbigh, in the county of Denbigh, since June last, upon violent suspicion of being a popish priest; and that William Lloyd now remains in gaol at Brecon, in the county of Brecon, upon a commitment for being a popish priest: and forasmuch as your majesty's justice for the great sessions for the county of Denbigh, at the great sessions held for the said county in September last, did not try the said Charles Mehaine for the said offence: your majesty's Protestant subjects being much disquieted, and popish recusants animated, by reason that delinquents of that kind are not brought to speedy justice, especially at this time of manifest danger to your majesty's sacred person, government, and religion established by law, proceeding from the notorious conspiracies of popish priests, jesuits, and popish recusants: We, humbly apprehending it to be highly ne-

Cl. of Cr. Set William Russel, alias Napper, to the bar. Who was arraigned upon an indictment of the same form, only the day of the fact differing, which was laid to be the 27th of November, in 30 Car. 2. To which he likewise pleaded Not Guilty, and put himself upon the country.

cessary, as some ease to the hearts of your majesty's good Protestant subjects, filled with present fears of popery, to have the laws speedily and effectually executed upon popish priests; do, with all humility, beseech your majesty, to grant one or more commissions of Oyer and Terminer, for the trial of the said Charles Me-haine and William Lloyd, according to the known and well-established laws of the kingdom.—And we do further most humbly beseech your majesty, That your majesty may be pleased to command your attorney-general, with all care and diligence to prepare the whole evidence against James Colker,* a Benedictine monk, and who assumes to himself the title of bishop of London, for his trial, at the next gaol-delivery for the county of Middlesex and city of London.—And we do further humbly beseech your majesty, That your majesty will graciously be pleased to issue forth your Proclamation, with a promise of a reward to any person that shall apprehend a popish priest or jesuit."

And six days afterwards they resolved, That a bill be prepared for the more easy and speedy discovery of Popish Priests.

On 20th of May, 1679, the Commons ordered, That a Message should be sent to the Lords concerning the condemned Popish Priests sent for up to London from the several county gaols, by order of their lordships; and two days afterwards, "Sir Wm. Francklyn reports from the Committee appointed to draw up and prepare a Message to be sent to the Lords, concerning the popish priests condemned in the circuits, That the Committee had agreed upon a Message to be reported to the House: which he read in his place; and afterwards, delivered the same in at the clerk's table: where the same was twice read, and, upon the question agreed, and is as followeth; viz.

"The House of Commons having made an humble Address to his majesty, That he would please to give order to the judges to issue out their warrants for the executing the several popish priests condemned in the several circuits; and his majesty having been graciously pleased to signify to the House of Commons, That your Lordships have sent for them, in order, as he conceived, to some examinations; and the House of Commons being also informed, that the said priests have, by order from your Lordships, not only been brought

* This appears to be the person, of whom, under the name of James Corker, two trials on July 18, 1679, and January 17, 1680, are reported.

Cl. of Cr. Set Henry Starkey to the bar. Whose indictment was the same, only the time differing, which was the 26th of January 30 Car. 2. And he also pleaded Not Guilty, and put himself upon the country.

Cl. of Cr. Set William Marshal to the bar. Who being arraigned upon a like indictment; and the time mentioned to be the 15th of January 30 Car. 2. And being asked, Whether Guilty, or Not Guilty, answered thus:

Marshal. My lord, I do find by this indictment, That I am arraigned for the same crime for which I was tried before: I do humbly desire to know, whether, according to law, I can be tried twice for the same fact?

L. C. J. No, according to the law you cannot be tried twice for the same fact, nor are you; for before you were indicted for having an hand in the great conspiracy, for being a conspirator in the Plot, and now you are tried for being a priest, and abiding in England.

Marshal. I was tried before your lordship as a traitor.

L. C. J. You were so.

Marshal. Now I am tried for a priest.

L. C. J. Which is another treason.

Marshal. If I am tried for a priest, I conceive I cannot be tried unless as a criminal priest: and I conceive I cannot be tried as a criminal priest, unless it be as a priest that hath had some attempt or design against the government.

L. C. J. Nay, you mistake there: there may be priests that have had no hand in the Plot; if you were acquitted for the Plot, yet you remain a priest still. Do you suppose then that every priest had a hand in the Plot?

Marshal. My lord, I humbly conceive, that priesthood, as priesthood, is no crime at all.

L. C. J. That is no crime at all.

Justice Dolben. Come, you must plead

out of the several countries where they were condemned, but continued yet in Newgate, and other prisons, in or about the cities of London and Westminster; by reason whereof the execution of the sentence, pronounced upon them, is still delayed; do desire of your lordships, that the said priests may be forthwith remanded to the several counties where they were condemned, that so they may be executed according to the judgments passed upon them."

And on the 8th of January, 1681, the House appointed a Committee to enquire and examine what Popish Priests convicted are in Newgate and other gaols in the kingdom, and to enquire into their conditions and circumstances. It also appears from the Journals, that king Charles the Second did issue a Proclamation, offering a reward of 20*l.* for the apprehension of every Popish Priest, and that accordingly many besides those whose Trials are included in this Collection, were apprehended.

* See his Case, *supra*, p. 589.

without more ado; and you must not use any more speeches.

L. C. J. You must be governed in all things by the direction of the court.

Marshal. I do submit to the direction of this honourable Bench: but, my lord, give me leave to say, I suppose I am indicted upon 27 Eliz. Now if it be made appear, that according to that statute priesthood alone is not treason—

Justice Dolben. Then you must speak it afterwards, but now you must plead.

Marshal. But if it be at least made doubtful, then it becomes matter of law; and I have just occasion to insist upon it, and pray counsel.

Justice Dolben. You must plead to the indictment first.

Marshal. Why, can I ask counsel after plea pleaded?

L. C. J. Yes, you may, if matter of law arise, and you may have counsel as to that matter.

Justice Atkins. The court is of counsel for you in such a case.

L. C. Baron. But you must plead first.

Justice Pemberton. You cannot be heard at all till you have pleaded to the indictment.

L. C. J. Pray take the directions of the court.

Marshal. I have a great deal of reason to submit to this honourable court that hath been so full of mercy and clemency, and therefore I do answer, That I am Not Guilty.

Cl. of Cr. How wilt thou be tried?

Marshal. By the king and my country.

L. C. J. No, no, that will not do.

Marshal. By God and my country.

Cl. of Cr. God send thee a good deliverance. Set Alexander Lumsden to the bar. Whose Indictment being of the same nature, only reciting the fact to be 11 Maii 31 Car. 2, he pleaded Not Guilty, and put himself upon the country.

Cl. of Cr. Set James Corker to the bar; who was also arraigned for the same treason, done upon the 24 October, 30 Car. 2. And being asked, Whether Guilty or Not Guilty, answered in these words.

Corker. My lord, I humbly beg the judgment of the court; I humbly conceive, my lord, I have been already tried and acquitted for this crime.*

L. C. J. Look you, that hath been over-ruled already in the case of Marshal just now, who is in the same condition: you are not now tried for the same fact for which you were tried before.

Corker. My lord, I suppose there is something particular in my case; I was expressly indicted as clerk, one that received orders from the See of Rome.

Justice Pemberton. His addition was Clerk, that is all.

L. C. J. But you were not charged in that indictment for this fact.

Corker. My lord, I pleaded to that indictment under that qualification of clerk.

L. C. J. So men do when they say in the indictment 'Labourer,' plead to it in that qualification; but if a man plead by the name of gent. the question is not whether he be a gent. or no, but whether he be guilty of the fact he is indicted for: and the question in your case was not whether you were clerk or were not clerk, but whether you had a hand in the Plot or no.

Justice Atkins. If the jury had found you a priest at that time, it had been a void finding, more than they were to enquire of.

Mr. Belwood. He was told so at that time, he was not tried for a priest.

Justice Ellis. After you have pleaded, then you may urge what you have to say.

Corker. Then I say, I am Not Guilty.—And he put himself upon the country.

Cl. of Cr. Set Lionel Anderson, alias Munson, to the bar. Whose indictment was for being a priest, and abiding here the 23th Jan. 30 Car. 2. And he pleaded Not Guilty, and put himself upon the country.

Cl. of Cr. Set Charles Parris, alias Parry, to the bar. Whose indictment was of the same nature, for abiding here 30 Maii 31 Car. 2. And he also pleaded Not Guilty, and put himself upon the country.

Cl. of Cr. Set all the prisoners to the bar that are to be tried. William Russel, Henry Starkey, William Marshal, Alexander Lumsden, James Corker, Lionel Anderson, and Charles Parry.

Capt. Richardson. They are all on.

Russel. My lord, I have been confined, I have not had my liberty till within these two or three days.

L. C. J. What then?

Russel. I have not had my friends to come to me to advise me upon what account I was to be tried.

Capt. Richardson. He says, he wanted his friends to advise for what he was to be tried.

L. C. J. Why, he knows he is to be tried for a Popish Priest.

Capt. Richardson. Here is one says he is sick.

L. C. J. Who is that?

Capt. Richardson. It is Anderson.

Justice Pemberton. Then he must have a chair to sit down on.

L. C. J. We will try him first that is sick.

Then the prisoners were called to their challenges, and the jury of Middlesex appearing upon their summons, and none of them being excepted against, the twelve that were first called and sworn, were the gentlemen following: John Bradshaw, Lawrence Wood, Matthew Bateman, John Vyner, Francis Mayo, Martin James, Anthony Hall, Samuel Jewel, Richard Bealing, Thomas Hall, Richard Bromfield, Samuel Lynne. Then they were numbered, and proclamation for information in usual manner was made.

L. C. J. Come, begin with the sick man Anderson; and set away the rest.

* See his Case, sup. p. 589.

Cl. of Cr. Lionel Anderson, hold up thy hand. You that are sworn, look upon the prisoner and hearken to his cause. He stands indicted by the name of Lionel Anderson, &c. Upon this indictment he hath been arraigned, and thereunto hath pleaded Not Guilty; and for his trial hath put himself upon God and his country, which country you are. Your charge is to enquire, whether he be Guilty, &c.

Mr. Belwood. May it please your lordship, and you gentlemen of the jury; the prisoner at the bar, Lionel Anderson, alias Munson, stands indicted for high-treason; and it is alledged in the Indictment, That he being born within the king's dominions, and made a priest, and having received orders by pretended authority from the see of Rome, he did the 28th day of January last come into the kingdom of England, that is, as it is laid, in the parish of St. Giles in the Fields, in this county; and there he did abide contrary to the form of the statute. And this is laid to be traiterously done. To this he hath pleaded Not Guilty, and we are to prove it upon him by the king's evidence whom we are now to call.

Anderson. My lord, for my staying in the kingdom, I had the king's express command, and an order from the Council-Board: In the year 1671, they ordered Mr. Peter Welsh, and myself, with four or five others, who had in writing asserted his majesty's just rights over all his subjects, whether Protestant or Papist, against those so frequently imputed usurpations of the court of Rome. After this plot was discovered I came to the king, being afraid of being involved in the general calamity, and said to him, 'Sir, I desire to know what to do?'

L. C. J. Do, why?

Anderson. Good my lord hear me out. My Lord Privy-Seal brought me an order from the Council-board, and so it is recorded; and I think Dr. Oates will be so just to me, as to acknowledge that he hath seen it, and this is all that I have to say.

L. C. J. If you have an order from the council to protect you, you must apply yourself elsewhere: our business is to try the single issue, whether you have offended against the law.

Anderson. My lord, I that am but a poor little *individuum*, who am born with an innate and implicit obedience to my king, pray judge whether it lie in my power to dispute with him and his council, whether they can legally do this or no? Or that I ought to obey the king's command. My lord I am put upon a hard dilemma; if I (notwithstanding his majesty's command to the contrary) go out of the kingdom, then the severe imputation upon us is urged against me, That I have, with my religion, renounced my natural allegiance: And if I stay, then by the law (as you tell me) I forfeit my life.

Mr. Belwood. This is not a time for him now to insist on this matter.

L. C. J. Reserve yourself till the king's counsel have done, and the evidence given.

VOL. VII.

Mr. Justice Jones. Let him save his speech till such time as he comes to answer for himself.

L. C. J. Give him a chair if he be not able to stand.

Sir J. Keeling. May it please your lordship, and you gentlemen of the jury, Lionel Anderson, otherwise Munson, the prisoner at the bar, stands indicted here, for that he being a subject born within the dominions of the king, hath taken orders from the see of Rome, and hath contrary to the law come into England, and staid here as a traitor: For this treason he is indicted, and the indictment is grounded upon the statute of the 27th Eliz. a statute made almost an hundred years since, and it was upon great occasion: For it tells you plainly, That these priests that had taken orders from the see of Rome, were not only busy in seducing and perverting the king's subjects to the Romish superstition; but they had made many attempts upon the government, raising sedition and rebellion, and levying war against their sovereign; which is evident from the preamble of the statute itself. And it is true, the lenity and mildness of our princes hath in a great measure let this statute lie asleep; they have not been willing to execute the severity of the law upon all occasions at all times: but the occasion being renewed at this time, for the remedying of which this statute was principally made (that is to say, raising seditions and commotions, and rebellion against the king, the particulars of which I shall not enlarge upon, it hath been notorious in this place) that is the reason of the present prosecution of these persons: Who have not been contented to enjoy the indulgence of our princes, (which hath been extended to them, notwithstanding all their former numerous affronts that they have given) but have raised new commotions, and made attempts upon the person of our king, and of our government, and that is the occasion upon which these persons come to be tried. It is not purely (though that is a main ingredient) that they are tried *quatenus* priests, but as ordained by the see of Rome, and coming into England and abiding here. For a priest, if he be ordained by the see of Rome, if he comes not here, can do no hurt; but it is his coming and abiding here, that makes him the subject of this punishment, and hath occasioned this man's prosecution. Now, my lord, we shall prove that this Anderson alias Munson, hath taken orders from the see of Rome, whose authority constituted him a priest, and this we shall prove by several instances and steps; and then we doubt not but you will take that care for the preservation of the government, and for the peace and quiet of the nation, which becomes you, and give a verdict according as your evidence shall lead you.

Serjeant Strode. My lord, we shall call our evidence. The fact is this, That this person being a subject of the king's, and having received orders from the see of Rome, that is, being a Romish priest, did come and abide

2 H

here contrary to the statute; not that his priesthood is the crime, no it is his being a subject of the king's and owning an authority from abroad, and thereby denying the authority of his own sovereign. To prove this, we shall call Dr. Oates, Mr. Bedlow, Mr. Dangerfield, and Mr. Praunce. [Who were all sworn.] Set up Mr. Dangerfield first. Mr. Dangerfield, tell my lord and the jury what you know of the prisoner at the bar, Mr. Anderson.

Dangerfield. What I do know against him?

L. C. J. Yes, for being a priest?

Dangerfield. What, that particularly?

L. C. J. Yes, that particularly.

Dangerfield. My lord, about the latter end of May, or beginning of June, when I was a prisoner for debt in the King's-bench, this person took occasion to speak privately to me, and desired me to go into his room: He told me he had received a letter from my lady Powis, and that letter was burnt. But the next letter that came from my lady Powis, he would shew it me. And he did so: and the contents of the letter was, as near as I can remember, just thus: 'Sir, you must desire Willoughby to scour his kettle;' which was to confess and receive the sacrament to be true to the cause. A little after, that was Saturday, and I think it was the next day, being Sunday, I went into Mr. Anderson's alias Munson's chamber, and there I went to confession, and received absolution. And he sent me to another person to receive the sacrament, who was saying mass at that time. And when I had received the sacrament and returned to him again, he did tell me, That he, as a priest, did give me free toleration to go and be drunk, and drink with one Stroude: and I asked him, being something scrupulous in the matter, whether I might lawfully do it, having but just received the sacrament? he told me, Yes, he gave me authority so to do, being for the good of the cause.

L. C. J. Were you a Papist then?

Dangerfield. Yes, I was.

Just. Atkins. You went to confession to him, and received absolution?

Mr. Belwood. What was the good of the cause that he meant?

Serj. Strode. If you please, give an account of the whole thing.

Dangerfield. That was, as I was employed in a general affair for the Catholics: For I was to use my endeavour to bring over Stroude to be a witness for the lords in the Tower, concerning the plot, and to invalidate Mr. Bedlow's testimony.

Anderson. Here I am upon my life and death; all the world knows me, that hath heard of my name——

Just. Pemberton. Pray make no speeches, if you will ask any questions you may.

Anderson. No, I won't. Pray do not interrupt me; I perceive you have a pique against my life, and it may be I am as ready to give it, as you are to desire it; I wish that all the punishments of hell and damnation may come upon me, if ever I opened my mouth to this rogue for one

farthing, or about any such business in the world.

L. C. J. You must not call him rogue in open court. Let us have that respect shewn us that is fitting, and so shall you have; but this language we must not suffer.

Anderson. In the first place, I will bring all the prisoners in the King's-bench prison to testify, That I desired to be removed to Newgate, for here was the greatest rogue come in that was in England.

Just. Pemberton. This must not be suffered.

L. C. J. If you will ask him any questions, you may.

Anderson. Well, come Mr. Dangerfield, in the first place, Who ever saw you with me? It is impossible but somebody must see you with me, if we were together, as you say.

Dangerfield. My lord, there is one Hill, that is now a prisoner in the king's-bench, that saw me several times go into his chamber.

L. C. J. Was there any body by when you confessed yourself to him?

Justice Dolben. Confessions used to be in secret.

Dangerfield. No, my lord, he was not in the chamber, neither was it reasonable he should, but he saw me go in often.

Anderson. Surely, Mr. Dangerfield, you and I could not be so well acquainted, but somebody or other must take notice, that we spoke together sometimes. Now if you can produce any one body that will testify it, I will be bound to be hanged, and say no more.

Justice Atkins. He is not bound to bring witnesses to this purpose. He swears the fact charged upon you positively.

Dangerfield. This Hill, my lord, that is in the King's-bench, hath made oath of it before Mr. Justice Foster.

Anderson. But, my lord, this one thing I have to say against this rogue; there is a statute, made since his majesty's happy restoration, which judges what shall be treason during his majesty's life: And after enumerating the crimes, directing that the offender 'shall be convicted by the oaths of two lawful, adds 'and credible witnesses:' As if the prudence of our legislators, which brings good out of evil, and measures the subjects future safety by past practices, judges that clause necessary, 'and credible.'

L. C. J. Pray speak out, Sir, for I cannot hear you.

Anderson. My lord, I understand the meaning applicable to me thus, That since the statute does use the word 'credible' as well as legal, it does judge that both would be very necessary. Now that he is not a credible witness I can prove——

L. C. J. Why is he not credible? Certainly if he be legal he is credible.

Anderson. No, my lord, that does not follow. First the——

Recorder. It is not his time to make this sort of defence.

Justice *Dolben*. He should have done it before the witness was sworn, if he would except against his testimony.

L. C. J. But why is he not a good witness, pray?

Anderson. My lord, a man pilloried twice, that hath broke prison once, and committed other heinous offences——

L. C. J. Where is the record of any of this?

Anderson. My lord, I'll tell you how I prove it. That worthy gentleman, colonel Mansel, whom this villain would have involved in——

L. C. J. You must not do thus, abuse persons with words, without proof.

Anderson. What, to prove it is day?

Justice *Pemberton*. He must not be suffered so to do.

Anderson. Why, here is capt. Richardson, [taking him at the same time by the shoulders] knows what I say to be true: Come, speak, you have been familiarly acquainted with that rogue, (pointing at Dangerfield.) [Captain Richardson laughing, I must not witness.] My lord, I will do thus no more; indulge a little to my innocency and infirmity.

Justice *Pemberton*. You do not seem to have so much infirmity upon you.

Anderson. My lord, I will produce that worthy gentleman, col. Mansel, whose innocent blood was designed to be shed by that villain; who stood qualified then (as he doth now) with that magnificent title of the king's evidence; but as soon as col. Mansel urged, that he was pilloried twice, &c. our worshipful king's evidence was clapped up, and col. Mansel left at liberty.

L. C. J. Have you that record here?

Anderson. I have not.

Sir John Keiling. We pray we may go on then.

Serj. *Strode*. Set up Dr. Oates. Dr. Oates, will you tell what you know of this matter?

Oates. My lord, he is a priest, I can in sincerity say it; I have heard him say mass myself.

L. C. J. Where?

Anderson. It is very true, I did it; but, my lord, I will shew you, mass is no proof of a priest: For, 1. The statute makes a difference between saying mass, and being a priest; in punishing priests with death; but saying of mass, with a pecuniary mulct of 200 marks, and a year's imprisonment.

Oates. He does execute the office of a priest, for I have been at confession with him as a priest, and have seen him consecrate the Sacrament, and I have seen his letters of orders as a priest?

L. C. J. Did he wear the habit of a priest?

Oates. Yes, at mass.

Mr. *Belwood*. Pray, Sir, are you sure you saw his orders as a priest?

Oates. Yes, I did.

L. C. J. Of what order is he?

Oates. A Dominican frier he is.

L. C. J. What can you say to that?

Anderson. I can say enough; but what can

I say against the king's evidence? your lordship sees this makes a very fine jingle, but there is no proof of it.

L. C. J. We can go no further than the evidence: He says, you are a Dominican frier: That he heard you say mass: That he saw you consecrate the Sacrament. And I am sure you allow none but a priest to do that.

Anderson. I understand by the laws of England, that I am tried upon a statute which makes priesthood a crime. Now I will ask Mr. Oates a question: Mr. Oates, can you prove, that I received orders from the see of Rome? You are to prove, by this statute, three things against me. I am tried upon a penal statute, which ought to be construed most in favour of the prisoner.

Just. *Pemberton*. Ask him any questions, if you will, but this is not your time for arguing.

L. C. J. Look you, we must do with you as we have done with others, and will do with the rest. If you mean that this statute should never have any effect, that is, that the priests shall not be convicted as such, unless we can produce witnesses that saw them take orders; then you have avoided all the statute; but if so be it be plainly proved, that you have done the acts of a priest, those that none are allowed of to do, or undertake to do, but a priest, is not this a satisfaction, and a plain one too, to yourself and all the world, that this issue, whether you are a priest or not a priest, is well proved in the affirmative?

Oates. My lord, I saw his letters of orders.

Anderson. My Lord Chief Justice, I would speak a little to what you say.

Just. *Pemberton*. Look you, sir, you must not have such liberty as this granted to you. You may, if you will, ask questions, but it is not your time to dispute.

Just. *Jones*. You must not invert the order of trials. When a witness is called, he must give his evidence. If you will ask him any questions, you may do it. But if you will observe any thing, you have time to do it when the king's witnesses are all heard.

Just. *Atkins*. Dr. Oates, the prisoner did not understand sure what you said. Did not he confess to you he had orders from Rome?

Oates. Yes, he did confess so.

L. C. J. You confessed it yourself.

Anderson. My lord, how comes it to pass, that I did not come here in a yellow coat, and was arraigned for a fool, and not for a traitor? If I am a priest, that I should tell him I was such an one.

L. C. J. Nay, I cannot tell, because you did not put it on. If you would ask him any questions, do.

Anderson. Yes, Whether you do know me to be an Englishman? And whether you saw me take orders from the see of Rome?

Oates. You said you were an Englishman, and a gentleman, and the son of an English gentleman.

L. C. J. Do you deny you are an Englishman?

Anderson. I am not, nor no man is to be tried upon a presumption; it is but a conceit in law, and penal laws are to be taken strictly, and in favour of the prisoner.

L. C. J. Methinks you speak very like an Englishman.

Mr. Belwood. My lord, we call now Mr. Bedlow. You know the question, what it is, Sir, concerning the prisoner's being a priest.

Bedlow. He is a priest, and an Englishman, if his mother was honest, and he honestly born; for he is Mr. Anderson's son of Oxfordshire, a gentleman of 2 or 300*l.* a year; I know him and his father very well.

Anderson. My lord, could I but apprehend that I lay under so great a guilt, as to have been acquainted with so great a rogue as this fellow is, I would have been my own executioner, and not have expected my sentence at this bar.

L. C. J. Do you know him well?

Bedlow. Very well, both him and his father; his father is an Oxfordshire gentleman.

Anderson. Now I think I shall prove the rogue perjured: Is my Lord Chief Baron in the Court?

Court. Yes, he is.

Anderson. Why then my father has the honour to be well known to his lordship, who knows this to be false.

L. C. Baron (Wm. Montague, esq.). No, no, Mr. Bedlow, he is a gentleman's son of quality in Lincolnshire.

L. C. J. You are mistaken, you are mistaken, his father is a Lincolnshire gentleman.

Anderson. And yet this rogue is upon his oath; but indeed all his life is full of such mistakes.

Bedlow. I don't know, my Lord Privy-Seal's nephew told me so.

L. C. J. But what say you to him, as to his being a priest?

Bedlow. I have heard him say mass.

L. C. J. Did you ever receive the Sacrament from him?

Bedlow. Never. But I have seen him administer the Sacrament, and he was in a priest's habit.

L. C. J. Where?

Bedlow. I think it was at the Venetian Resident's; I am sure it was at some of the ambassador's houses.

Anderson. This matter is so unlikely, I know not what to say to it.

Just. Pemberton. Will you ask him any questions?

Anderson. Upon my salvation I never saw him before.

Just. Dolben. It is a strange thing, that you should take upon you to say upon your salvation you never saw him: How many might come into a room, and you not see them while you are at mass?

L. C. J. He might see you, though you did not see him: He might come in, and you not see him.

Just. Atkins. Is that any argument, or any

thing to the purpose, or does that contradict the evidence? Does the minister, or ought he to know all his congregation whilst he is in preaching?

Anderson. I never saw him, I say. My lord, I'll give you but one argument, which is called *Argumentum congruentie*.

Just. Jones. Will you ask him any questions?

Anderson. To what purpose will it be for me to ask him?

Bedlow. When he was first taken I was not stirring; but while I was making ready they told me there was one suspected to be a priest. I heard him speak in the next room, and I knew his voice, and said, That is Mr. Anderson. I presently knew his tongue before I saw him.

L. C. J. You knew him very well then?

Bedlow. I never had any great converse with the man: When he was taken they asked me, If I knew any thing of this man about the Plot? I told them, No; but he was in orders from the Church of Rome, for I heard him say mass at such a place. He told me, said he, I have been in orders, but I revoked them, and turned protestant.

Mr. Belwood. Set up Mr. Praunce. Pray, Sir, tell what you know.

Praunce. My lord, I have heard him say mass several times at Wild-House; and he hath given the sacrament there, and I have seen him take confessions—

L. C. J. How often?

Praunce. Several times.

L. C. J. Then you know him very well?

Praunce. Yes, very well.

Anderson. I never saw him in my life.

L. C. J. But he hath seen you.

Anderson. My lord chief justice, I will bring witnesses to prove, That I did never say mass at Wild-House, nor went to the chapel: For some, forsooth, would needs have me to have been excommunicated for writing for the king's temporal jurisdiction over all his subjects (independent of the pope) as appears by a Letter of the bishop of London on my behalf to sir Clement Armiger.

L. C. J. How long have you known him?

Praunce. Seven years.

L. C. J. How often have you seen him say mass?

Praunce. A dozen times.

Anderson. It may seem strange that I should have the impudence to deny what this worthy gentleman says. Mr. Praunce, dare you say you know me?

L. C. J. Why, were you never there?

Just. Jones. Well, well, will you ask him any questions?

Anderson. Who did I give the Sacrament to?

Praunce. A whole rail-full hath been at the Sacrament at a time; several people I have seen receive it from him.

L. C. J. Did he deliver the Sacrament to you?

Praunce. No, he did not, I commonly received at Somerset-House.

Serj. Strode. We have done, my lord.

Just. Jones. The king's counsel have done with their evidence, and now you may say what you will.

Anderson. My Lord Chief Justice, may I speak now?

L. C. J. Yes, you may.

Anderson. My lord, all the world knows me, and I am known to most of the dignified clergy in England: My lord bishop of London, and Dr. Lloyd, and the bishop of Durham sent to me to tell me, that if they knew of my trial they would be here. My lord, I have lain under an ill censure for scribbling and writing against the temporal power of the Church of Rome. I never said mass in any popish church, I am confident, these ten years; that I have said mass, I will not deny. I would not tell a lie to save my own life; nay, nor would I tell a lie to take away the life of the greatest villain upon earth; no, not that rogue [pointing to Dangerfield.] But, my lord, I protest there is not one word true that hath been sworn against me, but what Dr. Oates hath said concerning my saying mass. Oh! my lord, I would not deny it if I were to be hanged presently; and is not that a great evidence of my innocence and sincerity? But this does not prove that I am guilty of what I am accused for; for I am indicted upon a penal statute, and three things must be proved strictly to bring me within that law: First, that I am an Englishman—

L. C. J. It is proved you are an Oxfordshire man.

Anderson. No, my father is Lincolnshire, and my lord chief baron knows him.

L. C. Baron. I do know a gentleman of that name there.

Bedlow. I was told he was Oxfordshire.

Just. Dolben. He speaks himself to be an Englishman. All the world knows it by your speech.

Anderson. I know my father is so.

L. C. J. Why do you deny it yourself?

Anderson. It is one thing to deny it, and another thing to have it proved so: I am not to prove it, they are.

L. C. J. He says you are so.

Anderson. He talks like a parrot: These things are to be proved strictly; no man's life is to be taken away by presumption; which is but a conceit in law, and ought not to overthrow that maxim of law, that penal laws ought to be taken most strictly in favour of the prisoner: And I ought to be proved, *ad literam*, within the law; and that according to the statute made since his majesty's happy Restoration, by two lawful witnesses; and not only by two lawful, but by two credible witnesses too. I suppose the gentlemen of the jury being apprized of these my exceptions to these witnesses, notwithstanding give credit to them, whom perhaps they would not trust for 6d. in their shops, and make themselves their compurgators; and, as in waging law, do take it upon their conscience, that what these rogues say is true.

L. C. J. So they do.

Just. Dolben. If these things are not well proved nothing will be proved.

Just. Atkins. Have you any witnesses that you would call?

Just. Pemberton. If you will call any, you may.

Anderson. How shall I call them, when I did not know of my trial?

Mr. Recorder. (Sir George Jefferies.) If you will send for any witnesses the court will stay, if they be to any thing material.

Anderson. My lord, I have against this gentleman, Mr. Dangerfield, almost all the prisoners of the King's-Bench for witnesses.

L. C. J. Call them, and name them.

Anderson. Mr. Adderley, Mr. Puller, who can say that I never drunk a pot of ale with this man while he was there.

L. C. J. Who would you send for?

Anderson. Those persons, to prove that I had a grudge and prejudice against this man, and that I desired to be removed to Newgate for that very reason.

Just. Dolben. But the question is, Whether you be a priest, or no? And you cannot send for any one that knows you, but will say, That he hath taken you for a priest all along.

Anderson. But still it is but a presumption, not a proof.

Just. Dolben. The jury is to be judge of that, how far that goes.

L. C. J. What do you expect for proof? Do you imagine there should be no proof to convict you upon that statute, unless we produce some witnesses that actually saw you take orders?

Anderson. Yes, I suppose so, my lord, because penal statutes are to be taken strictly.

L. C. J. Look you then, How vain would you make a statute of England, the laws of your country? How idle a thing were it to expect any possibility of proof, such as to convict a priest, if this be the interpretation of the law, That no man should be convicted by a jury upon this statute, but one against whom two witnesses should swear they saw him take orders? Where can we find such a witness?

Anderson. Admit that this law were thus evaded, yet there would be no inconvenience, and I would prove it to your lordship by authority: It was the opinion of all the Judges, delivered about 9 years ago to the king and council, upon a question about laws against the Romish recusants; they all agreed, That this law was only made *in terrorem*.

Just. Pemberton. Look you, Sir, you must not talk so, it is not to be permitted.

Just. Dolben. Will you go to arraign the judges here?

L. C. J. No, no; the king's counsel did very honestly and prudently upon that matter: For, said sir John Keiling, It is very true, our kings have not, since this law was made, put the statute in execution onto rigour, 'till you yourselves occasioned it: But still the law was a good law, and absolutely necessary at its

making, as necessary as the preservation of the queen's life, and the quiet of her dominions; and now it is become as necessary for the preservation of the protestant religion, which all your arts are employed to undermine; and more necessary again, for the preservation of our king's life, against which your contrivances are so bent.

Just. *Pemberton*. Do you think that you shall be heard here to dispute against the law, and say it was no matter for the law, it is a void law; and scandalize the judges, that they gave it for their opinion, that it was only in *terrorem*?

Anderson. No, I dispute for the law.

Just. *Pemberton*. You must employ your time otherwise, if you intend to be heard.

Anderson. Then this is that I require; I desire these things may be proved; First, That I am an Englishman, and then I took orders from Rome, and then that I abode here contrary to the statute, which things in this penal statute must be proved.

L. C. J. You have, upon the matter, proved the first yourself in your appeal to my lord chief baron, that he knew your father, who is a Lincolnshire man.

Anderson. I might be bred and born beyond sea, though my father was so.

L. C. J. If you will give no proof to the contrary, a little proof will serve the jury's turn, hearing you speak, and knowing your father was a Lincolnshire man.

Anderson. No negative can be sworn, they must prove the affirmative.

L. C. J. That will turn the proof upon you to the contrary.

Just. *Atkins*. A reasonable proof against you, with such probability, will put it upon you to disprove it.

Just. *Pemberton*. Look you, Mr. Anderson, if you have any witnesses to call for or send for, the court will give you leave to stand by a little and send for them; but if you continue to argue in this manner, the court will give their directions to the jury.

L. C. J. But, Mr. Anderson, the court will do you all the justice that can be expected. If you have any material witnesses to be sent for, the court will have patience till they come; but then you must be sure they are material witnesses, for we will not go to lose time upon a bare surmise. If it be only to prove this negative, that Mr. Dangerfield was never in your company in the King's-bench, it will signify nothing, for there are three witnesses without him.

Just. *Pemberton*. Have you any witnesses to prove that you were born beyond sea, or any thing that is material, we will stay for them.

Just. *Ellis*. There is nothing now in question but whether you be an Englishman and a priest; and if you can prove that you are not so, you say well. But I think you deny not now but that you are a priest, only you would have us prove that you are an Englishman. Your speech betrays you, and there is so much evidence against you, that I have not heard in

any case as I know of. And all your witnesses will be to little purpose.

Anderson. Only this I desire to observe, That I have been a man always countenanced by the best of kings, and his privy-council; and if the parliament had not been dissolved, I had been protected by the parliament: Now, I say, if your lordships think me worthy of any consideration (as I have been a man that have given several testimonies of my loyalty, and obedience to the government) I desire your lordships would please to stay till you know the king's pleasure.

L. C. J. You know where you must apply yourself for that; we are barely upon our oaths, and so is the jury too, to try the fact, whether you be a priest; and this I will tell you, and I must say to you, I dare appeal to your own consciences, whether this issue, your being a Romish priest, is not as plainly and evidently proved to the satisfaction of all mankind, as any thing can be?

Anderson. But it is all by presumption still.

L. C. J. Well, gentlemen of the jury, the matter that he insists upon, are two things, First, says he, You have not proved me to be an Englishman, and yet at the same time he appeals to such as knew his father to be an English gentleman; and his language, his tongue betrays him. It is true, some kind of evidence is to be given, that he is an Englishman, he himself tells you, that he is born of English parents; but it is a foreign matter, that he should be born beyond sea. And if it were so really, then it comes on this side: if he can produce any witness, he says something; otherwise we leave it to you, whether you are not satisfied in your consciences, by hearing him speak, and understanding who his father was, that he is an Englishman. The next thing is for his being a priest: I do not know, nor can there be expected a plainer proof than this that hath been given, because he doth those acts which none but a priest amongst them does; he says mass, he consecrates the sacrament, he takes confession, he gives absolution, and all this proved by four witnesses.

Anderson. That the clerk does at mass, he gives absolution.

L. C. J. Does or can any but a priest absolve?

Oates. My lord the clerk, he that serves at mass at that time, gives *pro forma* absolution to the priest, without which, the priest cannot approach to the altar; after he hath made a general confession for the whole congregation, the clerk absolves the priest, that he may absolve the congregation.

L. C. J. Well, the fact is plain upon you; we must never expect to convict a priest upon this statute, if such proof is not sufficient.

Just. *Dolben*. He does acknowledge that Dr. Oates hath heard him say mass.

L. C. J. Go on to the next.

Mr. *Belwood*. The next we will try, shall be James Corker, [With whom the jury was charged, as with the other.] May it please your

lordship, and you gentlemen of the jury; James Corker, the prisoner at the bar, stands indicted for high treason, for that being born within the king's dominions, and made a priest by authority from the see of Rome, did traitorously come and abide in England, contrary to the law. To this he hath pleaded not guilty.

L. C. J. Well, call your witnesses.

Serj. Strode. Dr. Oates, Mr. Bedlow, and Mr. Praunce. [Who were all sworn.] Dr. Oates, pray tell my lord, and these gentlemen, what you know of this Mr. Corker's being a priest.

Oates. My lord, he hath said mass at Somerset-house; and before the Proclamation and Declaration in 1674, made against the catholics, he was one of the queen's priests, he is a Benedictine monk, and he hath said mass at Somerset house; and I have heard him say mass at the Savoy.

L. C. J. In a priest's habit?

Oates. Yes, I have seen him in a monk's habit.

Corker. When?

L. C. J. Have you ever seen him give the sacrament?

Oates. Yes, I received the sacrament from him myself.

L. C. J. Where?

Oates. In the Savoy.

L. C. J. Did he consecrate the sacrament?

Oates. Not that that I received; I cannot say whether he did or no.

L. C. J. Do any administer the sacrament but priests?

Oates. They are in orders first. And it is against the laws of the church for any but priests, to do it.

L. C. J. None use to do it but priests, do they?

Oates. I cannot tell; but he that I took it from, I always took to be a priest: Besides, I saw his patent to be bishop of London; and they don't use to make them bishops before they be priests.

L. C. J. Did he shew it you?

Oates. I saw it.

Justice Atkins. From whom was that patent?

Oates. It was from the see of Rome.

Justice Atkins. Under what seal was it?

Oates. I can't tell that; but I remember that I saw the patent.

L. C. J. Well, will you ask him any thing?

Corker. When was it that you heard me say mass?

Oates. The first time that I heard him say mass, is near upon three years ago; and then I heard him say mass about the last winter was two years.

L. C. J. How often have you heard him say mass?

Oates. Several times; a dozen times I believe.

Corker. Was there any body with you when you heard me say mass?

Oates. I believe there was an whole church full at Somerset House.

Corker. Can you nominate any in particular?

Justice Atkins. How can he do that? He says there was an whole church full.

Justice Pemberton. Will you ask him any more questions?

Corker. No.

Serjeant Strode. Then set up Mr. Bedlow. Pray, Sir, will you tell my lord and the jury, what you know of Mr. Corker's being a priest.

Bedlow. I have seen him wear the habit of a Benedictine monk, before the suppressing of the convent in the Savoy; and I have seen him confessing several people in Somerset House.

L. C. J. And gave them absolution?

Bedlow. Yes.

L. C. J. Do they use to let them see when they confess?

Bedlow. They confess in public, but they speak so softly we cannot hear; but the whole chapel sometimes may be full of people confessing.

L. C. J. When was this?

Bedlow. About four or five years since, when Father Lathum was there.

L. C. J. Did you ever hear him say mass at Father Lathum's?

Bedlow. No, I never saw him say mass, but only confess.

L. C. J. Did you never see him deliver the Sacrament?

Bedlow. No, my lord.

Corker. When you saw me in my habit, was it when you came to Father Lathum's?

Bedlow. I judge so, it was several times, with several of them.

Corker. Can you nominate any one that saw me at the same time?

Bedlow. There were a whole chapel full of Catholics.

Justice Pemberton. That is no great matter whether he can or no.

Justice Atkins. It is an immaterial question, why do you ask it?

Bedlow. My lord, what I did was done so privately, that if I went but from Strand-bridge to the monks, I either took a boat and went by water, or a coach and went round about, to avoid suspicion.

Mr. Belwood. Then set up Mr. Praunce. Pray, Sir, tell what you know of this.

Praunce. I have heard him say mass at Mr. Paston's in Duke-street.

L. C. J. How often?

Praunce. Never but once?

Corker. When, Sir?

Praunce. It may be two years ago.

Justice Atkins. That is another place too, Mr. Corker.

L. C. J. Have you any thing to ask him?

Corker. No, my lord.

L. C. J. What have you then to say for yourself?

Corker. My lord, this I have to say for myself, and I do protest it to be true: I never in my life did say mass or hear confessions at Somerset House.

L. C. J. What say you to Mr. Paston's?

Corker. No, nor at Mr. Paston's; nor ever was in the company of that man, nor ever saw him there in my life, to my knowledge.

L. C. J. That may be.

Corker. I likewise protest, that I never said mass in any public place since I was born.

L. C. J. It may be you count not Mr. Paston's a public place.

Corker. If it be a private place, then I should know who were in the company, and who were admitted there.

L. C. J. No, you were not two or three years ago so nice and cautious whom you admitted to see you in the exercise of what you call your religion; because the execution of the law was not so strict as now-a-days it is. And therefore it is very probable, and may very well be, that you were at Mr. Paston's house, and yet not know all the company.

Corker. But I say, I never did say mass there.

Justice Pemberton. Here are three witnesses against you, and do you think your bare word will be taken against their three oaths?

Recorder. What say you to the Savoy, Mr. Corker? I ask you, because I would know whether you can speak truth in any thing.

Corker. I would not tell a lie, though I should thereby save my life: and I do again protest before God and the Court, I never in my life said mass or heard confessions at Somerset House chapel, nor at Mr. Paston's in Duke-street. And as to the Savoy, seeing I will be sincere, I shall only say, that as my denial will not clear me, so I beg I may not be my own accuser.

L. C. J. Here is one hath swore it.

Corker. It is only Oates, my lord.

L. C. J. Well gentlemen of the jury, you hear what is proved against him by three witnesses, that they heard him say mass and receive confessions, and deliver the Sacrament. They tell you what order he was of, and that they saw him do the acts of a priest.

Corker. I appeal to all the world that ever came to Somerset House, whether ever any one heard me say mass there.

L. C. J. Here is one hath.

Serj. Strode. We will try William Marshal next. [Who was charged upon the jury as the other.]

Mr. Belwood. May it please your lordship, and you gentlemen of the jury, William Marshal, the prisoner at the bar, stands indicted for high treason. The offence is not for being a priest barely; but that he being born an Englishman, within the king's dominions, and having received orders from Rome, did, against the laws of the kingdom, come and abide here.

Serj. Strode. Swear Dr. Oates and Mr. Bedlow. [Which was done.] Dr. Oates, pray stand up.

L. C. J. What can you say to Mr. Marshal's being a priest?

Oates. I have heard him say mass in the

Savoy, and I have seen him in that posture that the priests are in when they give absolution.

L. C. J. Have you seen him in a priest's habit say mass?

Oates. Yes, in his habit as a Benedictine monk.

Justice Jones. Did you ever see him give the Sacrament?

Oates. Yes, and consecrate the host.

Justice Jones. Well, have you any thing to ask him?

Marshal. When was this?

Oates. I have known him these three years to be a priest.

Marshal. That is a year longer than you knew me at the trial.

Oates. It is a great while since that trial.

L. C. J. Aye, that is a good while ago.

Marshal. But where, Mr. Oates, and when?

Oates. At the Savoy.

Marshal. When?

Oates. Within the compass of three years, several times.

Marshal. How does that afford me any occasion of defence? I can make no plea, unless he ascertains time.

Justice Pemberton. It is good evidence, without confining himself to precise time.

L. C. J. He says a dozen times within that compass.

Marshal. But why does he not name some particular time; for unless he name the time, how is it possible for us to disprove him?

L. C. J. He tells you many times in three years.

Marshal. But when?

L. C. J. Why, within three years.

Justice Dolben. What if he could tell you when?

Marshal. Let him name the day, then we could disprove him; and let him name the day, and if I do not disprove him I will be hang'd.

L. C. J. It is an improper question that you ask.

Just. Pemberton. He is not bound to name the day.

Oates. Well I will pitch upon a day now.

Marshal. When was it?

Oates. Several times last summer was twelve-month.

Marshal. What, before the Plot?

Oates. Several times in that summer before the Plot was discovered; and several times the winter before, when I came over from Spain.

Marshal. Did you hear me say mass before you went over to Spain?—*Oates.* Yes, I did.

Just. Dolben. Call another witness.

Mr. Belwood. Mr. Bedlow.

Serj. Strode. Pray will you tell what you know of Mr. Marshal.

Bedlow. I know a great deal of him.

L. C. J. What of his being a priest?

Bedlow. I have seen him in his habit of a Benedictine monk in the Savoy.

L. C. J. Have you heard him say mass?

Bedlow. No, my Lord, I have not; but he hath been preparing to go to take confessions.

L. C. J. Did he own himself to be a priest?

Bedlow. He was in the habit of a priest, but I never saw him execute any part of the office of a priest.

Just. Pemberton. Did you hear him declare, that he hath been going at any time to take confession.

Bedlow. The monks have said when he hath been gone, that he went to take confessions.

L. C. J. Upon your oath, have you ever heard him own himself to be a priest, or ever say that he was going to take confession?

Bedlow. No, my Lord; but I have seen him in a monk's habit, and within half an hour he was in a secular habit: for when they went abroad they took confessions in their secular habit.

L. C. J. How often have you seen him in a monk's habit?

Bedlow. I do not know whether it were more than once; and I asked then, Where is our Father going?

Justice Pemberton. And what said they to you?

Bedlow. He was going to take confessions.

Just. Dolben. Have not you yourself been confessed by Marshal?

Bedlow. No, my Lord.

L. C. J. What say you to him, will you ask him any questions?

Marshal. I do not, I think, need to ask this witness any questions.

L. C. J. That shall be observed for you, if it be to your advantage. If you have any thing to say for yourself, pray speak it.

Marshal. If there be but one witness, what need I make any defence?

L. C. J. What say you to Mr. Oates's testimony?

Marshal. As for Mr. Oates, if your lordship will but promise, that it shall not prejudice me, as to the point of having but one witness, I have much to say for myself: but I think I need not trouble your lordship with it.

Sir John Keiling. Were not you here when Marshal was tried for the plot?

Bedlow. Yes.

Just. Pemberton. You must not ask him any questions about that.

Marshal. My Lord, I say, if your lordship will but grant, that the witnesses may have free access, and go away safe—

Bedlow. I believe the court upon his trial, was satisfied that he was in orders, received from the church of Rome.

Sir John Keiling. Swear Mr. Praunce. [Which was done.] What did you hear him say at his last trial?

L. C. J. This is hard evidence truly.

Justice Jones. If he would do it voluntarily of himself, he might, we did not ask him the question.

Praunce. My Lord, I stood just by him when he stood at the bar, and I heard him say this to the other man, 'Mr. Corker, though we are priests, this does not reach us.'

VOL. VII.

L. C. J. But is this good evidence?

Praunce. I did hear him say he was a priest.

Just. Pemberton. We did all hear him say so, I believe.

Just. Atkins. I dare say none of the court asked him the question.

Marshal. My Lord, I was not asked, nor had any occasion, and certainly I should not pick an occasion to condemn myself: if I did it, I did it without occasion. Besides, my Lord, I humbly conceive, that there must be proof against a man, or his confession won't make him guilty.

Just. Pemberton. I would not have you too sure of that.

Marshal. Certainly if a man do confess at another time, without proof against him that will not do.

Just. Pemberton. I believe the jury will take your own confession.

L. C. J. Don't be over confident of that, for we have memories too as well as you.

Just. Pemberton. You are not belied by Mr. Praunce, I believe, Mr. Marshal.

Just. Ellis. If he have confessed it, that is sure proof enough.

Sir John Keiling. Swear Mr. Dugdale. [Which was done.] You were at the last trial, Sir; I only ask of you, can you remember any thing of this?

Dugdale. To the best of my remembrance, I heard him own that he was a priest.

Sir John Keiling. Then say what you can for yourself.

Marshal. My Lord, I have only one material witness against me. They say that I said so; if I did say so, I must say it to the court; and if it was to the court, it must be upon some question asked me.

L. C. J. You must not say so; I am afraid if you appeal to the court, it will do you no good.

Just. Dolben. It is plain that you are so free of your discourse, that you might say things that were not pertinent.

L. C. J. It is not proper for the court to give evidence; if we did, we should do you little service in this matter.

Marshal. I do believe I shall receive all justice from the court. And I have experienced it so already. Now as to the present testimony against me, I conceive that only Mr. Oates is a material witness; no one else swears that they ever saw me officiate or perform the duty of a priest. As for Mr. Oates, he says he heard me say mass several times the last summer before the plot. And Mr. Oates did say he was present in June, July, and August. Sir William Waller, though he was pleased to forget other things, yet did remember that, and did testify that he saw me in June, July, and August. Now then I humbly conceive, if he heard me say mass at any time in that summer, it must be in one of those three months. Was it in any one of them?

Oates. My lord, I came over in April from St. Omers, and I did, as I remember, hear him

3 I

say mass one time before I went again, and heard him say it several times after, which was about the middle of June I think.

Marshal. Now I say, if this honourable court will but please to promise, that the witnesses that come hither shall come and go safe, I believe there are witnesses that may contradict Dr. Oates.

L. C. J. What can your witnesses prove? you must not make bargains with the court.

Just. Pemberton. Why should you suspect that your witnesses should not go free?

Marshal. Because some have received great abuses.

Just. Atkins. It was so said, but not made out.

Just. Pemberton. There was only one person that came here, and affirmed so, but he did not prove it.

Recorder. And the court did say that they should be punished that did it.

L. C. J. The witnesses none of them, that I know of, were abused.

Bedlow. It was only the king's witnesses that have been abused.

L. C. J. What can your witnesses prove?

Marshal. He came over the 24th of April, and I can prove that from the beginning of April, to the end of July, I was not within threescore miles of London.

Oates. As to his officiating as a priest, I cannot speak positively as to the time, but I think in last summer was twelvemonth.

Just. Dolben. He says, he thinks he did once in that time, but he is sure that he did see you several times that summer.

Marshal. But what part of the summer?

Oates. From the time of my coming over again, to the time of the discovery of the Plot.

L. C. J. When was it that you heard him first?

Oates. When I heard him first was in 1677, before I went into Spain: I went away in the month of April, and I am sure he said mass before I went into Spain; and when I came back again in the winter, I came in November, and staid in town about ten days, and then went to the Savoy, and heard him say mass.

Marshal. What November?

Oates. Before the summer I came out of Flanders.

L. C. J. He says he went into Spain in April, (77.)

Marshal. And he heard me say mass before he went over?—*Oates.* Yes.

Marshal. Pray look, my lord, Mr. Oates will confess himself, he was but newly reconciled to the church of Rome, a little while before he went.

Oates. I was reconciled to the church on Ash-Wednesday, and I went in April following.

Marshal. Where did you hear me say mass then?

Oates. In the Savoy, at that time, before I went into Spain.

Marshal. Do you pretend to have known the Savoy ever before your coming back again?

Oates. Yes, I do.

Just. Pemberton. He does swear it.

Marshal. So he does, but he cannot prove it. Mr. Oates came over in the company, as he says, of Mr. Thimbleby and Mr. Hitchcock, and by his means he did get to be commended to be received into the order of the Benedictines, and he was then sent to Mr. Pickering in order to it; Now, my lord, is it credible that Mr. Oates having no acquaintance with the Savoy before he had acquaintance with Mr. Hitchcock, which was when he came from Spain, should hear me say mass before we went thither?

Just. Pemberton. All this is but a story to the court.

L. C. J. What a wild inference do you make from this unintelligible business?

Marshal. Mr. Oates says so himself.

Just. Dolben. We all know you said mass so openly in the Savoy, that any people whatsoever might come, and you did not know who they were.

L. C. J. Though he was not one of your order, yet he might know you.

Marshal. To my knowledge there were never three masses said in the world at the Savoy.

Dolben. The world knows the contrary.

Marshal. Let Mr. Oates be positive in any thing, and we will disprove him.

Just. Pemberton. He hath gone as near it as is necessary; he tells you, after his reconciliation, before he went over into Spain.

Marshal. But I say, he could not be at the Savoy before he was acquainted there, and I can bring witnesses to prove, that I was not then at the Savoy; but I pray, my lord, will these witnesses do me any good?

L. C. J. What will they prove?

Marshal. That all the summer from the beginning of April to the end of summer, I was in the country, threescore miles from London.

Oates. I am not so positive in that, my lord, but as near as I remember, before I went into Spain again. Your lordships all know that I was not so positive as to any one time; but the summer before the plot broke out, I heard him say mass several times in the summer.

L. C. J. Now he is positive that he saw you say mass in the summer before the plot was discovered. The substance of his deposition was your saying mass, the time is not material: He tells of a many times within that compass.

Marshal. How shall I disprove that?

Recorder. He hath given you one particular time from Ash-Wednesday, when he was reconciled to Rome, till he went to Spain in April.

Marshal. If he names times, then I am able to disprove him: And he did name one, but when he saw me offer to prove by witnesses, that I was not then in town, he goes off from it.

Just. Pemberton. It is impossible for witnesses to be positive to a day, a week, or such a thing.

Just. Ellis. How is it possible to be so, unless it be a thing that he had taken such particular

notice of, as to intend to swear to it, and give evidence about it afterwards? Now, I believe Dr. Oates at that time had no thoughts of giving evidence as to any such matter; but this he is positive in, that he did hear you say mass at the Savoy.

Marshal. My lord, if Mr. Oates had said he had seen me officiate at Somerset-House or Wild-house, it might have been something like; but at the Savoy it is known, that none are let in but friends, nor could Mr. Oates come in but upon a particular acquaintance.

L. C. J. How does that appear so?

Marshal. By those that live in the house.

Just. Pemberton. You must not spend the court's time in this manner of discourse: If you have any witnesses that you think in yourself are material, the court will suffer you to call them and pray call them presently.

Marshal. Here is the house-keeper herself that will witness that she never saw Mr. Oates there.

L. C. J. If the great Turk had come there with a pair of beads and a crucifix, you would have let him come in: But in the mean time, Mr. Oates, you have given him a pretty compass of time, whereby he hath an opportunity of disproving what you say: And you give him one particular short time; but can you give any time afterwards in the summer you speak of, within any month, or two, or three; because you say at several times?

Oates. I cannot be positive, but I will tell you one time was the Sunday before they held their conspiracy, which was, I verily believe, the Sunday before the 21st of August.

L. C. J. Do you believe it was in August?

Oates. Yes, I do, and confine myself to the month of August.

Marshal. Then call Ellen Rigby.

Oates. I was acquainted with Mr. Pickering soon after my being reconciled; and being acquainted with him, I went along with him several times to the Savoy.

Just. Pemberton. What do you talk of one Hitchcock, and I know not whom? he was acquainted with Pickering before.

Marshal. When, my lord?

L. C. J. Presently after he was reconciled.

Marshal. Well, but you pretend now, that since you came over here you were in the Savoy; Had you a key to get in?

L. C. J. He was reconciled on Ash Wednesday, he went in April to Spain.

Marshal. Here is Ellen Rigby.

L. C. J. Well, what would you have with her?

Marshal. I ask, Did she ever see Mr. Oates in the summer before last?

Just. Pemberton. Don't you lead your witness with such questions.

L. C. J. Do you know Mr. Oates?

Rigby. I have seen him when I saw him come to ask charity of Mr. Pickering.

L. C. J. How often?

Rigby. Twice or thrice.

L. C. J. What time in the summer?

Rigby. I cannot say; but I saw him in summer was twelvemonth.

Oates. Why then did not this woman, when she knew this evidence that would lay a blemish upon me, come and give it for Pickering, to have saved him?

Just. Dolben. Will you give me leave to ask this woman this question; Whether she ever heard you say mass?

Marshal. Ay, my lord, with all my heart; and if she says she hath, I will be hanged without any more ado.

Just. Dolben. Then you are sure your proselytes will say any thing you would have them?

Marshal. I myself am a perfect stranger to the Savoy in a manner.

Just. Pemberton. Is he not acquainted with the Savoy?

Rigby. Yes, he was there one month when Pickering was taken.

Marshal. Pray ask her whether ever, before Mr. Oates went over, she saw him in the Savoy?

L. C. J. You shall have your question asked; but do you think you can build upon that; if she did not see him, he did not see you? Did you ever see Dr. Oates there betwixt March and April, before he went over into Spain?

Rigby. No, there was nobody in the house but Mr. Pickering.

L. C. J. Was there never mass said in the house?

Rigby. Yes, while her majesty's servants were in the house.

L. C. J. But was there mass never said since in the house?

Rigby. Never since I came out of it, which was a twelvemonth ago.

Just. Pemberton. Was there not mass said in three or four years time there?

Rigby. Not in our house, I lived but in one house.

Marshal. I call her to know, whether Dr. Oates was there? And, my lord, here is that which I insist upon; That none is let in there to hear mass, but those that have some particular acquaintance and intimacy in the house.

L. C. J. She only speaks to one particular part of the house; she cannot but say mass was said in the other parts.

Rigby. There was no mass said there, that I know of.

L. C. J. Why, was there no mass said but in that particular house you lived in?

Rigby. I cannot say that.

L. C. J. But the question is, Whether ever you, Mr. Oates, saw him say mass in this woman's house?

Oates. I do not know that I ever saw this woman in all my life, before the trial.

Marshal. He came there under a disguised name.

L. C. J. He tells you he went along with Pickering.

Oates. Pickering served the mass.

L. C. J. Well, call your witnesses, if you have any other.

Marshal. I can prove that I was out of town the whole summer, from the beginning of April to the end of the summer: But if Mr. Oates will not stand to any time, I cannot be able to disprove him: But then I will only offer one or two things more.

L. C. J. When did you come to London? in August?

Marshal. I will tell you as near as I can to a day. I came in the middle of Bartholomew-fair, which begins the 24th of August.

L. C. J. So it was the latter end.

Just. Pemberton. Well, if you have any witnesses, call them, and do not spend the Court's time in vain.

Marshal. My lord, I have something very material, I think, to offer: The only material witness that is now against me, was a witness against me in my last trial: Now I do conceive, that I being found Not Guilty at the last trial, that witness ought to be looked upon as perjured: And I appeal to the Court, whether it were so or no.

Just. Atkins. That is a false collection, Mr. Marshal.

L. C. J. It is a strange inference you make: Do you think that every witness is perjured, because the jury do not find according to what he says? He is not perjured, for he may swear true, and the jury not believe him.

Marshal. I ground it, my lord, upon what my lord Jones said to the jury that sat upon Coleman; who at their going out told them, either they were to find him guilty, or bring in two men perjured. Thus it was his opinion, that the finding of the jury contrary to the evidence, did make them perjured; and there was none of the Court did oppose him.

Just. Jones. What then?

Marshal. And if this were the sense of the whole court, That a man must either be found Guilty, or the witnesses perjured; that is my case, and he is not to be believed.

L. C. J. See how unconsequentially you talk: The court might say, that you must believe these men perjured, if they swear a positive thing and you find it not: But if you make use of it thus, that therefore they are perjured it is false, for they not so till they be convicted, upon record: And though the jury don't believe them, yet they may swear true.

Marshal. It is true.

L. C. J. Then you make no inference from it.

Marshal. My lord, I am before the same court that I was tried by before and before the selfsame judges, who know that upon my trial he was not believed, and therefore is perjured.

Just. Pemberton. You must consider that sometimes the jury will go against the direction of the court; but if the witness be not believed by them, that does not argue that he does not swear truth, or is perjured: I tell you my brother Jones might say, you must find this man guilty, or think these men perjured: many times a judge will say so, but the jury often find against the direction of the court; shall these men be perjured then presently?

Just. Jones. There were two positive witnesses as positive as could be in the world, and nothing at all to contradict them.

Recorder. Will you give the jury leave to believe you, Mr. Marshal? For you yourself said you were a priest.

Marshal. Yes, if I said so, I humbly desire the jury to take notice of it, that they are the self-same witnesses that brought such a positive testimony the last time; which if the jury had believed, they must of necessity have brought me in guilty; I would not spend the time of the court, but I would observe this; it was all sworn positively, that I did consent to the king's death and other things.

L. C. J. You had the better luck.

Marshal. Then they are not to be believed now.

L. C. J. This is to no purpose, neither is it to be suffered: For you break in contrary to all the laws of practice, if we suffer this as an argument, that because an evidence was not believed in one case, therefore he is perjured: And the jury gave in a verdict contrary to the witnesses, that therefore he is perjured in another case.

Marshal. This does invalidate the testimony sure of such a witness.

L. C. J. You have said it often enough, come pray conclude.

Just. Pemberton. No, Mr. Marshal, you must not be suffered, in these harangues to impeach the witnesses; if you have any thing material against Dr. Oates, or if you can shew any record of his conviction of perjury, it may be something.

Marshal. My lord, it is for my life, and it is the second time that I plead for my life, much beyond my expectation; and therefore I hope I may have the freedom to speak: And though I confess this jury is not obliged to proceed according to the verdict of the former jury; yet this jury, as well as that, is obliged to proceed according to the appearance of truth: And his being found false in his testimony the last time, should make him of no credit here.

Just. Dolben. It is not so, they are not to take notice of it unless you bring them a record of conviction.

Just. Pemberton. He gave a good evidence then no doubt of it, though they would not believe it.

Just. Atkins. Upon what grounds that jury went, is unknown to us.

Marshal. Then, my lord, another thing is this: The law does except against all witnesses who are strongly or rationally supposed to have a spite or malice against the prisoner, much more where there is a manifest sign that he hath a malice. Now I will endeavour to shew how it comes to my case: Mr. Oates accused me last time of treason, and that in the highest nature; if this had been true, he had shown himself a good subject, and me disloyal: And the jury not believing him, I was found the good subject: Now he pursues his malice.

L. C. J. You shall not go on in this manner and make such notorious false inferences; that because it was not found according to his testimony, therefore he is perjured: The jury did not believe it, might not he speak true for all that? Hath not many a witness sworn true, yet the verdict gone against their evidence? And therefore you don't mind: Ye are all giddy headed, if you once get a thing into your heads, you can't get it out again.

Just. Atkins. If the jury did not believe it, a great many others did.

L. C. J. All you build upon is but a false conclusion; because the jury found you not guilty, therefore they found him perjured.

Marshal. My lord——

Just. Pemberton. Pray sir, if you will speak any thing that is material and modest, the court will admit of it; but if you only go to throw dirt upon the king's witnesses, men of good reputation, and men that have shewed themselves honest, and that have spoke truth all along; never a one of their testimonies but what is confirmed by another's; so that not one of them stands single, and for you to say they are ill men.

Marshal. My lord, I do not say they are ill men, I speak of matter of fact.

L. C. J. You conclude falsely; and if you did but mind it, you would never repeat it over and over again: That because the jury did not believe his evidence, therefore he is perjured: Do you suppose then that any other jury should never believe him?

Marshal. My lord, I reckon his evidence is not so good; and if I am found Not Guilty there must be malice in him to accuse me.

L. C. J. Look you, gentlemen, the single question is, whether he be a Romish priest or no? It is proved by Mr. Oates, that he hath several times heard him say mass, that he hath seen him deliver the sacrament, and seen him consecrate the host. He insisted upon it how often; Mr. Oates says, ten or a dozen times, in what time he cannot charge himself particularly with a month or two; but at last he did tell him positively, because Marshal said, how is it possible I can make my defence to generals, unless you fix some time? therefore, says he, I was reconciled to the church of Rome on Ash-Wednesday, and afterwards between that and April, when I went into Spain, I heard him say mass, that was once; but I heard him say in the summer several times: being asked what part? he says, I cannot say exactly, but I think in the month of August; if he had said any thing as to the particular time between Ash-Wednesday and his going into Spain, it had been something, but against that he makes no pretence, as to his saying mass in the Savoy that can contradict it. If he can still he shall call his witnesses that can prove he did not say mass between the Ash-Wednesday and the April he went into Spain: he does indeed say, that he was a great part of the summer in the country, in June and July to Bartholomew-fair, threescore miles off; but to that Mr. Oates

says it was some time in August, and so he might be in the country till then, and yet say mass after; he might come to town the 26th, or 27th, or 28th, and he might be here in August: so you hear no evidence that contradicts, supposing it proved true, what he imagines his witnesses can say; the last time that he charges him to have said it in the summer, may be true according to his own word and confession when he came to town. Then there is Mr. Bedlow, he only tells you he saw him in a priest's habit, but he did not see him execute the office of a priest, but he looked upon him as a priest, called him father: and that is all that he charges him with; that is concurring evidence, and backs Mr. Oates, but alone perhaps it would be very weak. But they set up here Praunce, and he says directly that at the trial he did confess himself to be a priest; and he seems to deny it, and would appeal to the court; but his appealing to the court would not help him in that case. So I leave this to you upon this evidence; if you believe Mr. Oates, that swears he saw him before he went into Spain, and after, say mass with the concurring evidence of Mr. Bedlow, that saw him in his habit, and with the subsequent evidence of those two more that do swear that he did say so, you must find him Guilty: and a man's own confession is evidence against himself; and if Mr. Marshal will recollect himself, he would not be too positive in that point. If all these particulars satisfy your conscience, I say, that he is a Romish Priest, you must find him Guilty; if you are unsatisfied, you must acquit him.

Cl. of Cr. Set William Russel to the bar. William Russel, alias Napper, hold up thy hand: You that are sworn, look upon the prisoner, and hearken to his cause, &c.

Mr. Belwood. May it please your lordship, and you gentlemen of the jury, William Russel, alias Napper, stands indicted for High-Treason: the offence charged in the indictment, is, That being born within the kingdom of England, and having received orders from the see of Rome, he did come and abide here. To this he hath pleaded, Not Guilty.

Serj. Strode. Swear Dr. Oates, and Mr. Praunce. Dr. Oates, will you tell my lord and the Jury, what you know of Mr. Russel's being a priest?

Oates. My lord, this Russel went by the name of Napper, and is a Franciscan Frier, and I heard him say mass several times at Wild-house.

L. C. J. What, in his habit?

Oates. In priest's habit.

L. C. J. When was this?

Oates. The last summer before the Plot; I have heard him twenty times sing mass.

Justice Jones. Did you ever see him give the Sacrament?

Russel. Where pray was this?

Oates. At Wild-house.

Russel. What is his name?

L. C. J. Oates.

Russel. I do not know him, I say, my lord.

L. C. J. Did he do it publicly?

Oates. Yes, in the chapel.

Justice Jones. Did he give the Sacrament?

Oates. I did receive the Sacrament from him.

Russel. Why first of all, I say I do not know him.

L. C. J. It may be so, more know Jack Pudding, than Jack Pudding knows.

Russel. Well, then, if one witness must stand I have no more to say.

L. C. J. Will you ask him any questions?

Russel. He says he heard me a month ago.

L. C. J. No it was last summer was twelvemonth.—*Russel.* Then he must prove it.

Capt. Richardson. He does prove it, he swears it.

Russel. Well, I can make it appear, last summer was twelvemonth I was in the country.

Oates. And I heard him say mass, November, 1677, he was then one of the Chaplains of Wild-house.

Russel. Give me leave to recollect my memory.

Mr. Belwood. Set up Mr. Praunce. You hear the question: sir, is the prisoner at the bar a priest?

Praunce. Yes, I have heard him say mass twenty times in his habit.

L. C. J. Did he give the Sacrament?

Praunce. Yes, I saw him give the sacrament to several, and he did hear confessions; he had a great many people about him.

Russel. When was this?

Praunce. Two or three years ago.

Russel. Where?

Praunce. At the Spanish Ambassador's at Wild-house.

Att. Gen. My Lord, here is sir William Waller, that took him, with his vestments and all his trinkets. [Who was sworn.]

L. C. J. Come what say you, sir William?

Sir W. Waller. That morning I took him, as soon as I came into the room, I asked him his name: he told me his name was Russel: I asked him, if he ever went by any other name? He denied it for some time, but looking amongst some of his papers, I found some letters directed to him by the name of Napper; and then he did confess his name was William Russel Napper. Searching among his clothes, I found some religious habits; I asked him, if they were his, and he confessed and owned them to be his.

Russel. It was in my custody; it was none of mine.

L. C. J. Why did you say so then?

Russel. I kept it for another.

L. C. J. But you told him it was your own, What say you to that?

Russel. I do not remember that.

Just. Dolben. Well, he swears it.

L. C. J. Here are two positive witnesses against you, what say you to it? What say you to his saying, he hath heard you say mass twenty times?

L. C. Baron. What say you to the saying mass at the time Dr. Oates speaks of?

Russel. I believe he is mistaken as to the time and year: I was entered into the house in 1678.

Just. Pemberton. Then you think it was at another time.

Russel. He could not hear me at that time, for I was then in the country.

L. C. J. Have you any thing to say? It shall be allowed you, it was at another time, but it seems it is true. Look you, gentlemen, you have a very plain business of it; here are two witnesses that swear they saw him give absolution, deliver the sacrament, and heard him say mass, and one says twenty times: and sir W. Waller, who says, that he confest the priest's habit to be his own.

Russel. Consider my circumstances, and give me a little time; I have not had any time to get my friends near me, or to prepare myself.

L. C. J. I do not see any good time would do you: I think the best use you can make of your time is to repent.

Oates. My Lord, the court here is pestered with papists; here are a great many about here.

L. C. J. If they be witnesses, we cannot keep them out.

Bedlow. Some of them may be witnesses, but all are not; and if they be, they come to catch advantages.

Just. Dolben. I don't understand why they should be turned out.

Justice Pemberton. Let them alone: be at quiet.

L. C. J. No, no, they will revile us, that they had not an open and a fair hearing; we won't have it said, that we do any thing in huggemugger; what we do is done openly and honestly.

Cl. of the Cr. Set Charles Parris, alias Parry, to the bar. Hold up thy hand: You that are sworn, &c.

Mr. Belwood. May it please your lordship and you gentlemen of the jury; the offence for which the prisoner at the bar stands indicted, is High-Treason, the same offence for which the rest have been indicted——

L. C. J. Then call your witnesses.

Serj. Strode. Dr. Oates, and Mr. Praunce. [Who were sworn.]

L. C. J. What can you say against the prisoner, as to his being a priest?

Oates. My Lord, he is a reputed priest, and hath said mass several times: I have heard him say mass at Wild-house, not in the public chapel, but in another room.

L. C. J. Where do you say?

Oates. Once at Wild-house.

L. C. J. Where else?

Oates. At Mr. Paston's.

L. C. J. When was this, winter or summer?

Oates. Within the compass of a year, reckoning 1677 and 1678; it was on a Saturday one

time, and twice at Mr. Paston's, and once or twice I cannot tell which, at the other place.

L. C. J. And in the priest's habit?

Oates. Yes, in the priest's habit.

L. C. J. And did you see him consecrate the host?—*Oates.* Yes.

L. C. J. And give the sacrament?

Oates. Yes.

Parry. My Lord, as to that he speaks of 1677, or 1678, what month of 1678 I desire to know.

Oates. I cannot confine myself to a month; I knew him to be a priest, but I was little acquainted with him, but he was a reputed priest.

Justice Jones. But you are sure this is the man?

Oates. Yes, this is the man.

Parry. Am I the man? What is my name?

Oates. You went by the name of Johnson.

L. C. J. Did you never go by that name of Johnson?

Parry. No, my Lord, but by this name of Parry; Parry is my name, and by that name I went, and never by any other name than Parry, whatever he says.

L. C. J. Why by that same name you are indicted, and you are the man that he saw.

Just. Pemberton. Will you ask him ever a question?

Parry. I have asked him already what I would ask him.

Sir John Keiling. Then set up Mr. Praunce.

L. C. J. What do you say as to Mr. Parry?

Praunce. I know he is a priest, and have heard him say mass at the Venetian Ambassador's, and at Mr. Paston's, and he went by the name of Johnson.

Recorder. Did you go by that name?

Parry. No, I never went in my life but by my own name, Parry; that is my name, whatever he says, and I am not ashamed of it.

L. C. J. How often?

Praunce. Once at Paston's, and two or three times at the Venetian ambassador's.

L. C. J. And you saw him give the sacrament?

Praunce. Yes.

L. C. J. In his habit?—*Praunce.* Yes.

Parry. At what time?

Praunce. I believe it might be half a year before the Plot: and I know you by another circumstance: you brought a chalice to my house, and it was whole, and you broke it, and told me, I must not touch it until it was broke, and so you defaced it.

L. C. J. That was an holy vessel, was it not?

Praunce. Yes; and he told me I must not touch it till it was broken in pieces.

L. C. J. If you had not been a priest, he had been as holy as you, and he might have touched it as well as you.

L. C. Baron. His breaking was to desecrate it.

Praunce. He bought some oil-boxes of me about that time.

Parry. I do not know this man.

Praunce. You were several times with me.

L. C. J. Why, have you forgot the chalice you brought to his house?

Parry. I have no reason to forget myself, for I never did any such thing, for I never bought or sold to him any chalice, or any such thing; and besides, suppose I had, that doth not argue that I am a priest.

L. C. J. No, but if he were so holy as to touch the chalice, he would be a priest. But there is no great stress laid upon that, but to shew you that he knows you, he did not mistake the man. The stress of the evidence lies, that he heard you say mass at the Venetian ambassador's, and at Paston's, and then Dr. Oates speaks of Wild-house.

Parry. I was never in my life at the Venetian ambassador's, nor at Mr. Paston's, nor at Wild-house.

L. C. J. Can you swear that he is the man?

Bedlow. No.

L. C. J. Then set him aside.

Bedlow. I had order to send for two witnesses out of Monmouthshire—

L. C. J. Here is proof enough.

Justice Pemberton. What have you to say for yourself?

Parry. I have this to say, and can shew it evidently, that is, I have witnesses to prove, that I never was at Wild-house to officiate in the years 1677 and 1678 before the Plot: and for these six or seven months that Mr. Praunce does alledge I was in London, I was in the country.

L. C. J. When?

Parry. Six or seven months before the Plot?

L. C. J. He did not confine himself precisely to any six or seven months.

Parry. My lord, I desired him to fix upon a month.

Justice Pemberton. He cannot do it.

L. C. J. If he can, let him; we will ask him the question; when was it that you saw him do thus?

Praunce. My lord, I am not certain what time it was, but about two, or two years and an half ago, I am not certain, it is impossible for me to remember it.

Justice Pemberton. You must take him in what he says; this he is sure of, he did hear you say mass and give the Sacrament, but as to the time, he believes it to be about this time, but he is not positive nor can be in it.

Parry. He only believes it now, because he knows I have witnesses for that time: he hath sworn it positively, it was six or seven months before the Plot, and I have witnesses to produce, can prove how long before the Plot I was in the country.

L. C. J. Call your witnesses.

Parry. Call Lanscroon and Jacob.

L. C. J. How long was it before the Plot, as near as you can tell the time, Mr. Oates?

Oates. I have heard so many priests, that I cannot possibly give an account of the day.

Parry. I desire to know of Mr. Oates, who

was ambassador at Wild-house at that time when he says he heard me.

Recorder. Were you never at Paston's?

Parry. No.

Recorder. Nor at the Venetian resident's?

Parry. No.

Recorder. Mr. Parry was not, but Mr. Johnson was.

Parry. I know not Mr. Johnson, my name is Parry; I hope it is not just I should be hanged for another person.

Recorder. I mean Mr. Johnson, alias Parry.

L. C. J. Mr. Praunce, you are sure that is the man?

Praunce. Yes, and I heard him confess himself to be a priest.

Parry. It is false.

L. C. Baron. And this is the man that brought the chalice to you.

L. C. J. Why, did you never go with a chalice to this man, and break it?

Parry. My lord, I never bought any thing of him, nor sold any thing to him, nor had any converse with him.

Sir John Keiling. I do never wonder at their denying any thing. I would fain know whether he would not deny the sun shines now or no?

Parry. And then for the private room, what room of the house was it?

Praunce. I took him up in the middle of Cheapside, and therefore I must sure know him.

Parry. He did not know me, but only took me on suspicion at random, because I was in the company of a Roman Catholic.

Then the witness *Lanscroon* stood up.

L. C. J. What would you have this man asked?

Parry. About the year 1677 and 1678, wherein Mr. Oates alledges he heard me, let them answer to that; how long I was at Windsor? And whether I did not dwell constantly there?

L. C. J. Well, you hear the question. How long was he at Windsor?

Lanscroon. From what time do you ask?

Justice Pemberton. Nay, you must not be led into an answer. How long was he at Windsor?

Lanscroon. From Christmas 1677, to Allhallantide 1678.

Justice Ellis. And was he never at London all that time?

Lanscroon. No.

Justice Pemberton. How can you tell that?

Justice Atkins. Was he always in your sight all the time?

Lanscroon. Yes, he was there always.

Justice Atkins. Were you there always yourself?

Lanscroon. Yes.

L. C. J. What are you?

Lanscroon. A painter.

L. C. J. And was you and he always together at that time?

Lanscroon. Yes.

L. C. J. What in a room?

Lanscroon. Yes.

L. C. J. Can you affirm, that for a twelve-month together, you saw him every day?

Lanscroon. Yes.

Recorder. How many years ago do you speak of?

Lanscroon. From 1677 to 1678.

Recorder. I do not ask you that, but how many years ago it is?

L. C. J. When came he down to Windsor?

Lanscroon. Christmas (1677.)

L. C. J. The testimony of Mr. Oates goes to November, and he speaks of Christmas following.

Recorder. How many years ago was it, I ask?

Lanscroon. A year ago last Christmas.

Recorder. That is 1678 and 1679.

Justice Pemberton. Your witness is understood, Mr. Parry.

Then stood up the other witness *Jacob*.

L. C. J. What say you about Mr. Parry's being at Windsor?

Jacob. He was a gentleman that came along with me in the coach to Windsor.

L. C. J. When?

Jacob. Before Christmas (1677.)

L. C. J. How long before?

Jacob. Ten days. He came there to take air for his health, he was not well.

L. C. J. How long staid he there?

Jacob. He staid at Windsor till Allhallantide after, he staid there a year.

L. C. J. Did you see him there every day of that year?

Jacob. Yes.

L. C. J. Why, what reason had you to see him every day?

Jacob. He dined every day at our house.

L. C. J. Your house? What house?

Jacob. The painter's.

Justice Dolben. However, that is but from Christmas, and he speaks of November before.

L. C. J. Did he dine there all that time?

Jacob. Yes.

L. C. J. Did he dine there every Friday constantly?

Jacob. Yes.

L. C. J. Did he never keep a fast in all that time?

Jacob. No.

L. C. J. Did he dine a Wednesdays and Fridays?—*Jacob.* Yes.

L. C. J. There was one Good-Friday in that time.

Oates. Pray ask this witness if he never heard him say mass?

Justice Dolben. Then he must be sworn, and may be he will deny it.

L. C. J. Did he dine of Ash Wednesday and Good-Friday?

Jacob. Yes, my lord.

L. C. J. So, he says you eat of Good-Friday and Ash Wednesday; the pope shall know it.

Recorder. What say you? Did he eat flesh upon those days?

Jacob. Yes, he did.

L. C. J. You can tell what he did eat, can you?

Recorder. Did he eat beef, or mutton?

Justice Dolben. Go, you talk like an idle boy.

L. C. J. He tells you, that you eat meat too, that is more.

Parry. My lord, we eat fish, and such things all Catholics do.

Recorder. Ay, the priests do, but their pupils do not, they will not allow it to them.

L. C. J. Well, have you done, have you any more witnesses.

Parry. I would ask Mr. Oates, and desire him to answer me to it, what did he depose against me before my lord Shaftsbury, viz. That he heard me say mass in Wild-Chapel, and there heard Mr. Collins's confession, and now he says, it was in a private room; now I have it to shew that I did not officiate there, nor frequent the house.

L. C. J. Who is that will prove that you did not come to the house?

Parry. The ambassador's servants.

L. C. J. I do not understand what you mean.

Parry. I am to ask of Mr. Oates, and desire he should answer to it, What he did depose before my lord Shaftsbury and the committee of lords, touching Mr. Collins?

L. C. J. He cannot remember, it may be.

Justice Pemberton. You must not ask such questions as these are, it does not refer to this matter.

Parry. He did give in, that I heard Mr. Collins's confession, I ask, why he does not give it in now?

L. C. J. That is a foreign matter, what have we to do with it now?

Justice Pemberton. If you will prove any thing against him, you may, but you may not ask such questions as that.

Parry. I have proved that I was in 1677, and 1678, in the country.

Justice Pemberton. They tell us of ten days before Christmas, and Mr. Oates speaks of November.

L. C. J. Look you, gentlemen of the jury, here are two witnesses against him, Mr. Oates and Mr. Praunce—

Parry. My lord, I have one thing I desire to be taken notice of, that is, this letter of the ambassador's, who upon the examination of all his family does testify and declare, that I did never officiate in any respect in his family.

L. C. J. It cannot be read.

Justice Pemberton. It is not any evidence.

Parry. How shall I clear myself, if the testimony of the ambassador and his whole family be not admitted?

Justice Atkins. It is a hard thing for you to clear yourself.

L. C. J. Why don't you bring them hither as your witnesses?

VOL. VII.

Recorder. Where is my lord ambassador, why does not he come hither?

Parry. He hath left the kingdom.

Recorder. Then you may boldly say any thing of him, and we cannot disprove you.

L. C. J. Is all his family gone with him;

Parry. There is but one remaining, I think he is here.

L. C. J. Call him.

Parry. Monsieur Rivier. [Who appeared and stood up.]

L. C. J. What do you ask him?

Parry. Do you know this hand, Sir.

L. C. J. It must not be read if he do.

Parry. He is one of the servants to my lord Eginoud, and he lived in the house, and he knows that by his master's order all his domestics were examined, and all protested they neither knew nor saw me ever in Wild-house; all which I have under his hand and seal to shew.

L. C. J. It signifies nothing.

Justice Pemberton. Ask him any question, but don't tell him what he knows.

L. C. J. Why don't you ask him some questions? Why, you have not catechisms in your church, you don't know how to ask questions.

Parry. Ask him whether he ever heard me say mass at my lord ambassador's house?

L. C. J. It is to no purpose if he did not, here are some have.

Parry. Then, my lord, he knows that there was a strict examination at Wild-house by my lord's orders, whether I did frequent the house, and it was reported by them all I did not; and they must know if ever I did officiate there, for there is none admitted to say mass there, but by order.

Justice Pemberton. Look you, Sir, do you know that Mr. Parry ever said mass at Wild-house?

Rivier. No, my lord, I do not know it.

Justice Pemberton. It was in a private room, Dr. Oates says.

Rivier. I never saw him there.

Justice Pemberton. If you ask an hundred here, they would say the same thing.

L. C. J. Come, when matters are plain it is in vain to contend; here is the business, gentlemen, here are Mr. Oates and Mr. Praunce, two witnesses against Mr. Parry; Mr. Oates says, he hath heard him say mass, one time at one place, and twice or thrice at another. Mr. Praunce hath heard him often, and Mr. Praunce does tell you plainly, that he cannot err, that he is not mistaken in the man, for he came to his house with a chalice, and broke it there, and he knew him so well, that meeting him by chance, he took him up in the streets; so if you believe them, they swear it positively, and you must find it so.

Then the Lord Chief Justice went away.

Cl. of Cr. Set Henry Starkey to the bar. Hold up thy hand, &c.

Mr. Belwood. May it please your lordship, and you gentlemen of the jury, Henry Starkey

3 K

stands indicted for the like offence with the other prisoners; that he having received orders from the see of Rome, came into England, and this is High-Treason; to this he hath pleaded Not Guilty; we will prove it upon him. Swear Dr. Oates and Mr. Praunce. [Which was done.]

Serj. Strode. Pray, Sir, will you tell my lord and the gentlemen of the jury, what do you know of this Starkey's being a priest?

Oates. My lord, Mr. Starkey is a priest, and I once heard him say mass at Mr. Paston's.

L. C. B. When was that? How long was it ago?

Oates. It is about 3 years ago.

L. C. B. Did he give the sacrament then, or at any other time?

Oates. None received but himself.

Mr. Belwood. Was he in priest's habit?

Oates. Yes.

L. C. B. Did he receive the Sacrament, and consecrate the host?

Oates. Yes, in both kinds.

L. C. B. Will you ask him any questions?

Starkey. He tells me of priest's habits; what are they, Sir?

L. C. B. What habit had he on?

Oates. A thing about his neck, and a surplice, and a thing about his arm; he had a surplice girt about him.

Starkey. I know you not; and I perceive you neither know what a priest's habit is, nor the difference between his habit and his ornaments. A priest's habit is a cassock down to the ground, and a side cloke; the ornaments of a priest are not a surplice, (as Oates says) but an albe that falls to the ground, and other things besides that.

Justice Pemberton. You are well skilled in it, I see.

Starkey. And how did you know that I said mass? Did you know that I took orders? For if I took no orders, it was no mass; for it is the priest makes the mass, and not the mass the priest; and then if I were no priest, it could be no mass.

Justice Pemberton. That is a pretty argument indeed! Do any but priests say mass?

Starkey. I can bring an instance of a gentleman in this town, a private layman, who said mass about this town, and he was a Protestant, and at last he stole the chalice. (His name was Gardener.)

Justice Pemberton. He did well, did he not? Is that your use?

Starkey. Yes, with such priests as he.

L. C. B. It is a great evidence this arguing of yours, if he did not swear it, that you are a priest.

Starkey. I wonder that this gentleman should so well remember me, I don't know him.

Justice Pemberton. Do you think you know every one that hath seen you at mass?

Sir John Keiling. Set up Mr. Praunce. What say you, Sir, to this?

Praunce. My lord, I heard him say mass at my lady Somerset's in Lincoln's-inn-fields, and

at Mr. Duncomb's, that taught school in Princes street.

Starkey. As I hope for mercy from Almighty God, I was never there in all my life, except Panty, her house in Gloucestershire.

Praunce. Did you know one Mr. Duncomb that is dead?

Starkey. Yes.

Praunce. Well, I heard you say mass at his house.

Starkey. My lord, I was never at Mr. Duncomb's in my life, but at 3 or 4 o'clock in the afternoon, and if I said mass there, it was over a pot of ale.

Praunce. I have heard him say he said mass in the king's army.

Starkey. I know neither of these two fellows.

Recorder. Come, I would fain see whether you priests and Jesuits can speak one word of truth or no: Come, Mr. Starkey, did you ever say mass in the army?

Starkey. I never did: but pray give me leave to speak; I appeared for the king, when he had not above 500 men in appearance for him; I am but a younger brother, (second brother to John Starkey of Darley in the county of Chester, esq.) and yet with an annuity of sevenscore pounds a year, which I bought, and other monies which I had, I spent above 4,000*l.* in the king's service, which I bled for before I had it, for I got it in another monarch's service; I lost my leg for him by a cannon-shot, and so spent my estate to that degree, that that day when I received my sentence of banishment, I had but three half crowns in the world, which were given me that same morning by two friends.

L. C. B. Mr. Starkey, you may urge this to the king, for his mercy and clemency, it is nothing to the point here before the jury to be tried. Whatsoever you have merited by your services, you must apply yourself to the king for his mercy, it is nothing here.

Starkey. Pray, my lord, give me leave to add something more: I was banished for 14 years into France, because I refused to take an engagement never to bear arms again for the king: I did discover to this king a plot designed against his life, state and government: I suffer to this day for it; and I delivered, into his own hand, 11 articles of high treason against the plotters and their abettors.

L. C. B. You may be a priest for all that.

Starkey. But, my lord, by the civil law it is a conclusion, that although a man be a traitor, and in the same plot, he is to be indemnified for discovering the conspiracy against his prince; much more for discovering another, that I was not a party in.

Justice Pemberton. We have nothing to do with that here, but whether you are a priest or not.

Starkey. That I must leave to the proof.

L. C. B. Well then, I'll tell you, gentlemen, this person is indicted for being a priest, and coming into England. For the point of his be-

ing a priest, you have heard two witnesses depose; and they both tell you, that they have heard him say mass, as great an evidence of it as can be, for none say mass but priests. Dr. Oates tells you at Mr. Paston's. Mr. Praunce says at Mr. Paston's, at my lady Somerset's, and one Mr. Duncomb's. If you believe this, you must find him Guilty.

Justice *Atkins*. And they speak too, to his receiving the Sacraments in both kinds.

Starkey. If I was there, sure there was somebody else besides myself, I did not say mass alone; produce but one witness for you, then I'll submit.

Cl. of Cr. Set Alexander Lumsden to the bar. Hold up thy hand, &c. Your charge is to enquire of him as of your first prisoner, and hear your evidence.

Mr. *Belwood*. May it please your lordship, and you gentlemen of the jury, Alexander Lumsden, the prisoner at the bar, stands indicted for High Treason, for that he being a priest, and receiving orders from Rome, did come here into England, and abide contrary to the statute.

Sir *John Keiling*. Swear Dr. Oates, Mr. Dugdale, and Mr. Praunce. [Which was done.]

L. C. B. Come, Dr. Oates, what say you to this man?

Oates. I heard him say mass, he is a Dominican friar, as I remember. I heard him say mass 20 times at Wild House.

L. C. B. And consecrate the host?

Oates. Yes, and I received the Sacrament from him.

L. C. B. And saw him take confession?

Oates. Yes.

Justice *Pemberton*. Will you ask him any questions?

Lumsden. What time was this, if it please you, Sir?

Oates. That summer that was before the Plot broke out. Mr. Lumsden knows me well enough.

L. C. B. Do you know him?

Lumsden. Truly I do not know that ever I saw him, or conversed with him in my life.

L. C. B. What say you, Mr. Dugdale?

Dugdale. My lord, I was at Whitehall that day Mr. Lumsden was taken; and by the importunity of some friends I did go to him, but I did not know him, but by discourse he did confess himself a priest; I asked if he was a Franciscan, he said he was a Dominican.

Oates. He is procurator-general of the kingdom of Scotland.

Recorder. They have such a parcel of people, and such names for them.

Serj. *Strode*. Mr. Praunce, what do you know of Lumsden's being a priest?

Praunce. I know he is a priest, and have heard him say mass several times at Wild House.

L. C. B. Was he there in the habit?

Praunce. Yes, and consecrated the host.

L. C. B. How long since?

Praunce. Two years since, I heard him 20 times.

L. C. B. Do you know what countryman he is?

Praunce. An Irishman, I think.

Oates. No, he is a Scotchman, he will not deny it.

L. C. B. What countryman are you?

Lumsden. A Scotchman.

L. C. B. Of what part of Scotland?

Lumsden. Aberdeen.

L. C. B. Were you born there?

Lumsden. Yes.

L. C. B. You have no more to say, have you?

Lumsden. My lord, I am not here, I think, to be my own accuser, I humbly conceive so, and whatsoever is against me must be proved, not simply asserted: They ought to give proofs and reasons; but so it is, it is but a simple assertion what they say; I desire they may prove it.

L. C. B. No, they need not; it is sufficient if they prove it by such circumstances that the jury are satisfied and convinced that it is true; but it is not to be looked for, that no proof should be given against the priest, but by them that saw him receive orders.

Justice *Atkins*. It is impossible almost to prove that.

L. C. B. But if they prove the circumstances, that you have executed the office of a priest by saying mass, which none does but a priest, it is enough to guide them in their verdict.

Justice *Ellis*. And they have proved that which is next to a positive assertion.

L. C. Baron. That need not be.

Just. *Ellis*. But let us not lessen our proof neither.

Just. *Pemberton*. You must consider that the proof is certain; for they have sworn an assertive positive thing, which thing is enough to a jury to prove you a priest, because none others but priests may do such things in your church, as you have done: Therefore it is a good argument and evidence to conclude you a priest, from this evidence that hath been given.

Oates. I have heard him own himself a priest twenty times.

Lumsden. The exercise of the priestly function is but a penalty of 200 marks.

L. C. Baron. Ay, that is, if the king will go no higher: But you are prosecuted upon another law.

Just. *Ellis*. It is evidence, and a great evidence, that which hath been given; for we must go according to the nature of the thing: It is impossible the act of parliament should be put in execution, if they must prove they received orders from the see of Rome: But when they have proved those things done by any man, which none ought to do but a priest, it hath been in all times allowed to be a special evidence.

Just. *Pemberton*. It is a plain and sufficient evidence.

Just. Ellis. But if there were any need of it, and you would have any more, he hath confessed, upon the question asked him, Whether he was a Franciscan; No, he was a Dominican.

L. C. Baron. Have you done? Then gentlemen of the jury, you must not at this time of the day be insnared by that argument; That there must be a positive proof of this reception of orders from the church of Rome, because it hath been all along accounted, and is an undoubted proof for your satisfaction, if it appears he hath exercised the offices of the function, those offices that are not done but by priests: Now this hath been proved by two witnesses, and by the confession of the priest himself to Dr. Oates and Mr. Dugdale: So I must leave it upon the point of fact to you, whether it be not sufficient proof. But this case will differ from all the rest, and the court is very tender in the case of life, that it should be without all question what is determined; therefore as to your enquiry for him, it must go only whether he be a priest or no; for the others you must consider them as Englishmen, and enquire of them as such: He is a Scotchman, as he says, and they say so too: Now then there are some words in this statute, whereupon the court hath conceived a doubt, whether his case comes within them; which are the words about the king's dominions, which now are far more enlarged than were those of the queen when the statute was made; if then you find him a priest, you must find the other matter specially.

Just. Ellis. Look you, gentlemen, we are to be of counsel for the prisoner; and it being matter of law, we shall take time to advise upon it before we give our opinions in it: but for the matter of fact, I doubt not but you will find that he is a priest; and then the other matters that he was born at Aberdeen in Scotland, and the other matters you may find specially, there needs no more.

Recorder. Swear an officer to keep the jury.

Who after the recess of a quarter of an hour, returned into the Court, and having answered to their names, and appointed their foreman to give in their Verdict, he delivered it thus:

Cl. of Cr. Lionel Anderson, alias Munson, hold up thy hand; look upon the prisoner, how say you, is he guilty of the high-treason whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. James Corker, hold up thy hand: How say you, is he guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is William Marshal guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is William Russel, alias Napper, guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is Charles Parry guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is Henry Starkey guilty, &c.

Foreman. Guilty.

Cl. of Cr. Alexander Lumsden, hold up thy hand: look upon the prisoner; How say you, is he guilty of the high-treason whereof he stands indicted, or Not Guilty?

Foreman. We find he is guilty of being a priest, and born at Aberdeen in Scotland.

Just. Ellis. Read the notes to them.

Cl. of Cr. You find that Alexander Lumsden is a Scotchman, of 58 years of age, born at Aberdeen in the kingdom of Scotland, being then under the dominions of king Charles the first, and now under the dominions of our present sovereign; and in the reign of the said king Charles the first, and that at the time in the Indictment mentioned, he was a priest in holy orders, by authority derived from the see of Rome, prout in the Indictment: And that he came and was remaining in England, prout in the Indictment. But whether upon the whole matter he be guilty of high-treason within this law or not, you do not know, and crave the opinion of the court.

Foreman. Yes.

Cl. of Cr. Then hearken to your Verdict, as the court hath recorded it: You say, &c.

Recorder. Call for the executioner.

Then the Judges went off from the Bench, and the Court proceeded to Judgment.

Cl. of Cr. Set Lionel Anderson, alias Munson, to the bar: Lionel Anderson, alias Munson, thou standest convicted of high-treason: What canst thou say for thyself, why judgment should not pass upon thee to die according to the law?

Anderson. I can say this, I would have gone out of England, but the king kept me here, telling me, I should not go; and I had a protection from the council-board: The bishop of London, when I was taken first, sent a letter to sir Clement Armiger, that neither I nor my books should be meddled with, that I had written for the king and the government, for which he conceived I might be excommunicated at Rome, and that I was then under a special protection of his majesty and council; and when I was again taken and put in custody of the horse-guard, the duke of Monmouth sent sir Thomas Armstrong to have me freed again: I begged of the king that I might go, said I, I will not expose the king to the worst of rabbles; but he told me, I should stay in England, and Mr. Peter Welsh and I had orders from the council, he one and I another, to stay.

Recorder. For that matter you may be assured, I promise it you faithfully and publicly that I will acquaint the king with what you say.

Anderson. I thank you, Sir.

Recorder. For this court hath nothing to do with that; the king is the proper judge of that matter, to determine his own pleasure as he thinks fit: Tie him up.

Anderson. Sir, I had no notice of my trial but this morning: I sent to my lord Bridgewater, to know when I should be tried, he told I should have ten days notice of it; now I have

witnesses to disprove Mr. Praunce's testimony; for Mr. Oates, I own he hath heard me say mass; but for Mr. Bedlow's testimony, as I hope to see the face of my Almighty God, I know him not: when I was taken, said he to me, Mr. Anderson, let me see your protection, and I shewed it him; you have two names, said he, I do not know whether it be you or no. And then besides, these are not legal witnesses.

Recorder. Nay, that must not be allowed you to say: you have been fairly heard and tried; they were upon their oaths, and the jury, twelve men upon their oaths, without any exception made to them, they have convicted you; therefore this is to calumniate the proceedings of the court.

Anderson. I tell you this more; they are not the king's evidence properly; for they swear for themselves upon the account of benefit; if any priest be convicted, they are to have so much money.

Recorder. The court heard the evidence that was given, and if you will have it of the court, the court does really believe them, and so did the jury too.

Anderson. I am satisfied.

Recorder. Tie him up then.

Cl. of Cr. James Corker, hold up thy hand: You stand convicted of High-Treason; what can you say for yourself, &c.

Corker. Nothing, but that I refer myself to God, my just judge and Saviour.

Recorder. Tie him up.

Cl. of Cr. William Marshal, hold up thy hand: Thou art in the same condition, what sayest thou for thyself?

Marshal. I have very little more to say than what I have said already: I thought the law had not allowed any man to have been condemned upon the testimony of one witness, but required two: Now there was but one positive witness against me, the rest only said, I had confessed myself to be a priest; two of them did swear, they heard me confess it at my other trial; if it had been at this trial it had been another thing, and there had been some validity in the proof; but to say, they heard me confess it at another time, I humbly conceive according to the law, bears no force. I have this further to add, his majesty, some years ago, put forth a declaration under the Broad-Seal, for a toleration of religion, and liberty of conscience, whereby the Roman Catholics had the use of their religion in their private houses. Now I have been informed, that according to law, whatsoever is put forth under the Broad-Seal, must be recalled by something under the Broad-Seal, or it remains in force; which was never done, as to this declaration, and then I lie under the protection of that declaration.

Recorder. As for the first part, it is plain, to the satisfaction of every body, that there hath been two sufficient witnesses, upon whose testimony you are convicted: for whether you were asked the question or not, yet if you will say you

are a priest, that confession of yours is evidence against you, though you might possibly say so without being asked the question.

Marshal. Is it credible I should do so?

Recorder. Yes, the jury believed it so.

Oates. One of the jury stood by and heard the words.

Recorder. And now, because I will put it out of all doubt, it is not the business nor the duty of the court to give any evidence of any fact that they know of their own knowledge, unless they will be sworn for that purpose; for though they do know it in their own private consciences to be true; yet they are obliged to conceal their own knowledge, unless they will be sworn as witnesses. But now you are convicted, I must take the liberty to tell you, that at your last trial you did own yourself to be a priest, and I must put you in mind further of something which you may very well remember; when I detained you after your acquittal, and re-committed you when sir G. Wakeman was discharged, I did then tell you, you have owned yourselves to be priests, I was bound to take notice of that confession of yours, and therefore obliged to detain you; such a token as that is may perhaps bring it to your memory; but as it was hinted to you before, you are a voluminous talker, and abundance of things may drop out of your mouth, that you don't consider before they are past.

Marshal. It is for my life, and therefore I may be permitted to speak sure.

Recorder. That is as to the first point: and then as to the king's declaration, which was the other matter you insisted upon, I presume it does not stick with any body that knows the matter: but lest it should, I would say this to it: it is very well known in the first place (I do not go now to determine the law upon it, because you know what opinions and judgment is received afterwards) yet this I will adventure to say, That it was never the intention of that declaration that ever priests should come and reside here; but it was only intended for tender consciences, as the very letter of the declaration itself does shew, not to countenance priests and Jesuits, that have cast off all their allegiance to the king, and endeavour both to destroy him and his government.

Marshal. Pray Sir, will you give me leave to speak as to that? If so be the use of their religion were permitted to Roman Catholics, that religion not being to be practised without priests, it is to be supposed, that the priests are permitted.

Recorder. But if a man were to argue with you now in your own way; pray are there not priests in England, besides those priests that were born here? you know, of your own acquaintance there were several Roman catholic priests, not Englishmen born, that are constantly here, who can perform the offices.

Marshal. Nay, I don't know that; but this I know, if they be not born in England, or have lived in England, so as to know the tongue, Roman Catholics will be little the better for them.

Recorder. Nay, I don't say much the better, but much the worse for their coming at them: and in case they would only use the English truth, I presume they would not have so many proselytes, but you gull them with stuff they understand not.

Marshal. Pray, Sir, give me leave a little, I have one word more: For all matters of treason, and treacherous conspiracy, I was freed before in this court; now I would observe what the best lawyers that ever were in England, have observed for me; that there is no crime in priesthood itself: For my lord Coke in his 5th Report, 39th leaf, commenting largely upon the statute of 27 Eliz. and enlarging upon the sense and meaning of that statute, and calling to mind who the men were that were formerly executed by force of that statute, and why, concludes thus: Hence it appears, that no man yet hath or can be executed for his function of priesthood, but because there was annexed to the priesthood treacherous designs and treacherous attempts. And the same lawyer in the 3d Institutes, 22d leaf, says, That in this statute of 27 Eliz. it was very wisely and justly done by the statute makers, to provide, that the judges should proceed in their judgments upon that matter, only according to what is expressed and specified in that statute. And those words were a sanctuary to the judges, and put in to prevent the shedding of guiltless blood. Now, if so be that so great a lawyer, in a discourse about priesthood and treachery, does thence conclude, That priesthood as priesthood is no crime, nor no function belonging to it hath any crime in it, well may I conclude so too: And indeed, if it had, then a great part of the world would be traitors; nay, it would bring in Christ himself, who was a priest, to be a traitor too: Therefore priesthood, as priesthood, hath no treason essentially linked to it. And when he says, that they must proceed according to what is specified, he does in the forementioned place shew, that it was not specified at all, that any that were executed, were for priesthood executed: And I am accused of nothing else in the world but bare priesthood as priesthood, without any design or treachery joined to it: And if, according to law, priesthood be not liable to condemnation, then I am not to be condemned.

Recorder. Now you have been heard.

Marshal. Yes, Sir, and I thank you for it.

Recorder. This long speech of yours will signify but little, when you consider the act of parliament upon which you are indicted. It is true, set that act of parliament out of the case, and then to be a priest is not High-Treason; nay, in case a man be born out of the king's dominions, and be a priest, and remain here, that is not High-Treason within this statute, because priesthood itself does not make the crime (God forbid any one should affirm it) but when all that is granted, when an act of parliament hath taken particular notice of the great mischiefs and inconveniencies that have attended the government, and the continual danger that the

supreme head hath been in, by having persons which were born within the king's dominions (as you were) to wave their allegiance, and to acknowledge a supremacy in any foreign prince or prelate, as you all do, when you take orders from the See of Rome; the wisdom of the nation hath thought reasonable that such should be adjudged traitors: And this act of parliament, upon which you stand convicted, does plainly say, If any one born within the king's dominions will take orders from the See of Rome, and shall after reside here, he is guilty of High-Treason: And this is not only thought so by us that are here, but by all my lords the judges that were present at your trial; for God forbid we should condemn you for any thing as High-Treason, if you had not been within the compass of the act of parliament: And what is treason, the act of parliament particularly describes, which all hath been proved upon you; and because you are pleased to speak it to the court, and lay it on the consciences of the court, I discharge my conscience; the jury having convicted you for High-Treason, I am very ready to pass judgment upon you according to the law, and I will clear my conscience of that presently. Tie him up.

Cl. of Cr. William Russel, hold up thy hand, thou art in the same case, what canst thou say for thyself? &c.

Russel. I can say this, my lord, that in my conscience, I do not acknowledge myself guilty of what they accuse me for, but I must submit to the laws as they are made; but I do protest before Almighty God, and this whole court, that I am innocent of all that is laid upon me.

Recorder. Why, what were you never at Wild-house, and said mass there? I would fain hear, whether you in the state and condition you are in (though you jesuits have a thousand tricks and evasions) have confidence enough to say you never were, nor said mass there?

Russel. I ought not to accuse myself.

Recorder. You are convicted. But every thing that you say is but an evasion, and a trick to catch and ensnare the ignorant, but people of any sort of sense will not be gulled so.

Russel. For my witnesses, you are my witness, I have but one witness upon that business.

Recorder. The jury have believed them.

Russel. It is possible it may be so.

Recorder. Nay, it is beyond possible, it is true.

Russel. The witnesses that have deposed against me, for my part, I know them not.

Recorder. You have heard of Dr. Oates, Mr. Praunce, and of sir William Waller too. Tie him up.

Cl. of Cr. Charles Parris, alias Parry, hold up thy hand. You are in the same condition, what have you to say?

Parry. What have I to say for myself? I have this to say, That those that did depose

against me, did not say one word of truth as to their allegations, I take God to witness for it; I am a dying man, and thank most heartily the court for what they are to pronounce against me, and I am as ready to suffer, as any man may be to have me to suffer, for it is God's glory and his cause. Then I insisted upon two parts, and complained, first, of sir William Turner, that being brought before him by Mr. Praunce, and shewing him my protection under an ambassador, and I professing myself a Frenchman, he slighted it, which I held to be a manifest breach against the laws of nations. Secondly, I was wronged by sir William Waller, when (in his examination of me with justice Warcup) in the Press-yard, Newgate, he threatened me with irons, &c. if I did not take my oath I was not born in France, and I refusing, (which none could be compelled to) for it was my opponents part to prove the contrary; and who can prove me to be other than a Frenchman?

Recorder. Nobody can; we believe you to be an Englishman.

Parry. If I be a Frenchman, I am not subject to the penal laws.

Recorder. Why, nobody does. We believe you to be an Englishman.

Parry. And if it please you, they are to prove it.

Recorder. Well, that is over now. Tie him up.

Parry. I am not a subject, and as not a subject, am not under the penal laws.

Cl. of Cr. Set Henry Starkey to the bar. Henry Starkey, hold up thy hand. Thou art in the same condition with him that went last before thee, what canst thou say for thyself? &c.

Starkey. In the first place, Mr. Recorder, here is the man (pointing at Mr. Praunce) hath sworn two lies at one breath.

Recorder. I must not hear that, Mr. Starkey.

Starkey. Will you please to hear me, Sir?

Recorder. I will give you all the freedom you can lawfully desire in the world, but it must be that which will consist with my duty, and the reverence you owe the court. You shall not revile the king's evidence as long as I am here, by the help of God.

Starkey. If that it were true, that I had said mass at my lady Somerset's and Mr. Duncomb's, yet it is not sufficient to prove a man to be a priest, for any man may take the priest's garments, and do the ceremony and the office, because they are hundreds, perhaps thousands, that have suffered death for it. And so to do these acts, is not evidence of being a priest.

Recorder. Indeed, I don't understand what makes a Romish priest, nor do I desire it.

Starkey. But you will give me the letter of the law.

Recorder. And the jury hath found you a transgressor of the law.

Starkey. The letter of the law is this, That if any one of the Queen's subjects shall transport himself beyond the sea, and shall in a

seminary take orders, by authority derived from the see of Rome, and shall return into England, and shall not present himself here to the ordinary, or else to such a certain number of justices of the peace within such a term, but shall seduce the king's liege people—

Recorder. No, that is another act.

Starkey. 'Then he shall be adjudged a traitor.' Now, Mr. Recorder, I come to this, as I told you before, I had discovered a plot to the king that was designed against his person, state and government, and did deliver into his hands eleven articles of Treason, which I had writ with my own hands; (and this he hath owned, and will own.) So, Mr. Recorder, upon this I was threatened my life and liberty by the plotters, That the king should not be gone 24 hours, but I should be imprisoned. When the king went what must I do? Must I stay there and hazard my life, or trust to the king's mercy? I was forced to come along with the king for protection. I came to Whitehall, and the king rose up and gave me his hand to kiss, and so did the duke of York, and told me I was welcome. I went to my Lord Chancellor Hyde, who when he saw me, embraced me in his arms, and said, thou art welcome, I am glad to see thee in England. I had occasion to speak with the bishop of London, Dr. Sheldon, about another person, and when I came to him he asked me, What is your name? My lord, said I, my name is Starkey, with that he catches me fast by the hand, and when he had done that, he took me in his arms, and told me, You are welcome. And Mr. Recorder, I do suffer to this day for the service I have done the king.

Recorder. Mr. Starkey, I can only say this to you, I do promise you faithfully, as I promised the other gentleman that went before, I'll tell the king what you alledge. He is the best able to give an account of it, and is the fittest judge of his own mercy. But I could recommend to you, Mr. Starkey, a thing that would be very acceptable, and then as far forth as it is modest for me to speak, I am pretty well assured, I might say, I could prevail for mercy to you, That is, as you did discover one plot before, so you would discover this hellish plot that is now on foot.

Starkey. Mr. Recorder, I have wished a hundred times, and wish now, that if there were any commissions, as is pretended, the first that had delivered one to me, should never have delivered a second; for I would either have brought him to justice, where he should receive his reward, or else I would have killed him in the place; tell the king, Mr. Recorder, that I say so.

Recorder. Well, the king is a fountain of mercy, and he is the best judge of the fit objects of it, I will, as I said, tell him what you say.

Starkey. If the king does not own what I told you, then count me the greatest knave that ever you spoke withal.

Recorder. You remain now under the con-

viction of the law; what mercy the king, who is the fountain of mercy, as well as of justice, will extend to you, is in his own power.

Starkey. Mr. Recorder, I have here his majesty's gracious pardon of the 25th year of his reign.

Recorder. I allow that, but you have staid here since.

Starkey. Why then, Mr. Recorder, pray will you advise me what to have done? Nature teacheth all men to shun danger; for I was threatened with life, &c. if I staid in France: Whether should I stay there, or return to my native country with my king? Now, Mr. Recorder, I desire to know what you would have had me done?

Recorder. I shall acquaint the king, and will do you all the kindness I can with him. Tie him up.

Starkey. But how shall I do then, when I am lame? I want a leg, and I must use my stick.

Recorder. Then let him alone.

Starkey. But I pray, good Mr. Recorder, will you be pleased before you give sentence upon me, to acquaint the king with what I have to say for myself.

Recorder. No, I cannot do that, the king's pleasure is to be known afterwards. Set Lumisden aside, and set all the rest to the bar.

[Then Proclamation was made for silence, whilst judgment was giving.]

Recorder. You the prisoners at the bar; you have been severally accused, arraigned—

Starkey. Mr. Recorder, may I speak one word? I have presented this year, wherein at the 26th of this month I have been a prisoner, several petitions by my friends to the king, and desired to be transported; for my age and infirmities, and want of a leg, did not stand well with my being in England these troublesome times. The king, I am told, hath promised I should, but I see no fruits of those petitions. And pray consider, this, that I should have been imprisoned if I stayed out of England, and now to be prosecuted in England in this manner, and to be drawn, hanged, and quartered, is very hard.

Recorder. Whether it be true or not, God knows, I shall acquaint the king with it. It only remains with me to take notice of it for that purpose. And for my part I am sorry with all my heart to see so many persons brought to receive the sentence of death by my mouth. But I must say this, you yourselves have been the occasion of it, and therefore must blame yourselves for it. You have had the benefit of the best laws, the law of England, which gives every subject the liberty to make a defence for himself, whenever he is accused of any crime; he hath the liberty to hear the witnesses what they say against him; to call any witnesses for him, and to make defence for himself. And not only so, but he hath likewise twelve men upon their oaths that are his peers, against whom he hath the

liberty to make a challenge without shewing any reason, to a certain number; and if it shall appear that any of them have the least prejudice or malice against any persons that are to be tried for their lives, to a greater number. Such, and so great is the benefit of the laws of England, beyond all the laws of any other nation in the world. But all these forms having been passed, and a jury of men, against whom you made no exception, having found you guilty of the offences for which you were indicted, there remains now nothing more with the court, but to pass that judgment of death upon you, which the law requires, and which is the business that lies upon me now. But before I do that, for I know you may think it a presumption, or at least a needless and unnecessary thing for me to take upon me, and give any directions to you, the business of whose profession it hath been to give precepts: However I think it necessary for the satisfaction of some persons that are here present, that I should give them some account, why I think this law, and the putting it in execution at this time, is not unreasonable. For it is to be known, that every subject of this realm by his being born within the dominions of the king, does owe an immediate allegiance to the king, and is to take notice by the law, that there is not any person hath any superiority over him; for under God he is the supreme head and governor. And if any person born within the dominions of the king shall so far forget himself, and what he owes to the king by his birth, and that supremacy which he should maintain with his life and fortune, as to acknowledge any other foreign person to be supreme, and to have a power to depose the king, and dispose of his dominions (as every one does, that takes orders from the see of Rome) he cannot but be thought deserving of the greatest punishment. Wherefore the wisdom of our nation, the parliament, at the time when they made the law, found that the religion established (that religion which I hope in God will remain notwithstanding all the enemies it ever had or shall have) was invaded by such priests as you; they found the life of the queen at that time in great danger, by the attempts of those persons whom they had made their proselytes, into whom they had infused principles, that it was no crime for them to depose their queen, since they had the authority of their pope to justify the fact. And if once men can preach such doctrine, and also but prevail with their hearers to be of such a persuasion, if care were not taken, we shall soon see an end of all sort of government, and of our religion too. But inasmuch as these principles were not so visibly endeavoured to be put in practice till of late times, though you were not permitted, but connived at; yet that is no reason but the occasion of making the law being revived, the execution of the law should revive with it. I suppose it is not unknown to any of us, that there hath been an hellish plot against the life of the king, and to

destroy our religion, I would to God I could say the Plot was at an end. For I must say, some of you, I fear, had too great an hand in it: and what a sort of monsters were prevailed upon to compass the same, by you that are priests and jesuits, who have wrought them up to such a belief, that murder in this world is a certain way to saintship in that which is to come. And though you seem to deny it, your practices are a proof of it beyond all contradiction, which is the reason that this law, which was a good law at the time of the making, and thought fit to be put in execution then, though it hath slept some time since, should now be put in execution against you, who have occasioned all those mischiefs to this nation in these latter times, which occasioned the making of the law. And one thing more I should say to that man, who pretends to merit by the good services he hath done for the public, that he should injoin a man to scour his kettle, as he calls it, to receive the Sacrament, and then give him a dispensation to be drunk, and make another so, to promote a damnable design, is such a power of priesthood, fit only for the Pope and his imps to put in practice.—But say no more, in charity I am bound to compassionate your condition, which with all my soul I do, and heartily can say to you, I am sorry to see you in that misery. It was in your own power to have prevented it; but seeing you have made yourselves obnoxious to the law, the only thing required of me, is to pronounce

the sentence that the law hath decreed: and therefore in the name of the Court I do pronounce this to be your Judgment—

Starkey. Mr. Recorder, give me leave to speak one word: if any one should have held to me that position, That it is lawful to depose and murder kings, I would have killed him in the place: tell the king, Mr. Recorder, I say so.

Anderson. It is my comfort, that no one of common sense can believe it.

Marshal. May I ask one question, Mr. Recorder, before you pronounce sentence?

Mr. Recorder. No, Mr. Marshal, you cannot speak now; but this is your Judgment, and the Court does award it: That you the several prisoners now at the bar, be conveyed from hence to the place from whence you came; and that you, and every of you, be conveyed from thence on hurdles to the place of execution, where every one of you are to be severally hanged by the neck; that you be severally cut down alive; that your privy-members be cut off, your bowels taken out and be burnt in your view; that your heads be severed from your bodies; that your bodies be divided into four quarters, which are to be disposed at the king's pleasure: and the God of infinite mercy have mercy upon your souls.

Parry. 'Te Deum laudamus; Te Dominum confitemur.'

Then the prisoners were carried away, and the Court adjourned the Sessions.

260. The Trial of JOHN TASBOROUGH and ANNE PRICE, at the King's-Bench, for Subornation of Perjury: 32 CHARLES II. A. D. 1680.

FIRST, Proclamation was made for information in usual form. Then the Defendants were called, and appearing, were by the clerk of the crown advised to look to their challenges. Then the jurors that were summoned to try the cause being called, and appearing, the twelve that were sworn, were these persons following, Thomas Harriot, Thomas Johnson, Charles Umpherville, Thomas Earsby, Richard Pagett, John Greene, Edward Wilford, Richard Bull, Joseph Radcliffe, Richard Cooper, James Supple, George Read.

Cl. of Cr. Gentlemen of the jury, you that are sworn, hearken to the record. The defendants John Tasborough and Anne Price, stand indicted by the oaths of 12 honest and lawful men of the county of Middlesex; which indictment sets forth,

"That whereas one Thomas White, alias Whitebread, William Harcourt, John Fenwick, John Gavan, alias Gawen, and Anthony Turner being popish recusants, and false traitors against our sovereign lord, Charles the second by the grace of God, of England, Scotland, France and Ireland king, defender of the faith &c. the 18th day of June, in the year of the

reign of our sovereign lord the king that now is the 31st, at the sessions of Oyer and Terminer, and Gaol-delivery, then held in the Old-Bailey, in the parish of St. Sepulchres, in the ward of Farringdon-without, London, for the city of London and county of Middlesex, were lawfully indicted for certain high-treasons, in the said indictment specified; and afterwards were severally tried by a jury of the said county, and then and there were attainted, as appears by the record thereof to the jurors aforesaid in evidence shewn. And whereas also one Richard Langhorn, esq. being a Popish recusant, the 14th day of June, in the year of the reign of our said sovereign lord the king that now is the 31st aforesaid at the sessions of Oyer and Terminer, then held by adjournment at the Old-Bailey, in the parish and ward aforesaid, was lawfully indicted for divers high-treasons in the said indictment specified; and being afterwards tried by a jury of the county, was then and there thereof attainted, as appears by the record thereof to the jurors aforesaid in evidence shewn. And whereas one Stephen Dugdale, upon the several trials of the indictments aforesaid, was a witness produced and sworn on be-

half of our said sovereign lord the king that now is, and then and there in lawful manner did give material evidence against the said William Harcourt, and the said several other traitors, to prove them guilty of the matters in the said indictment specified: the said defendants, John Tasborough and Anne Price, the premises aforesaid well knowing, and being persons devilishly affected towards our sovereign lord Charles the second, now king of England, &c. their supreme and natural lord, and devising, and with all their strength intending the peace and tranquillity of this kingdom to disturb, and to hinder and stifle the farther discovery of the said treasons, and as much as in them lay, the due course of law to elude, and the prosecution of justice in that behalf to retard and obstruct; as also to cause and procure that it should be believed that the persons aforesaid, attainted, were unjustly attainted, The said Anne Price before the trial of the said William Harcourt, to wit the 10th day of June, in the year of the reign of our said sovereign lord the king the 31st aforesaid, at the parish of St. Margaret Westminster, in the county of Middlesex, with force and arms, falsely, unlawfully, unjustly, corruptly, and against the duty of her allegiance, did solicit, suborn, and endeavour to persuade the said Stephen Dugdale, that he the aforesaid Stephen Dugdale should not be a witness nor give evidence against the said William Harcourt, upon the trial of the said William Harcourt for the treasons aforesaid: and that the said John Tasborough and Anne Price, afterwards to wit, the 12th day of October, in the year of the reign of our said sovereign lord the king that now is, the 31st aforesaid, at the parish of St. Margaret Westminster aforesaid, with force and arms, falsely, unlawfully, unjustly, advisedly, corruptly, and against the duty of their allegiance, did solicit, suborn, and endeavour to persuade, and either of them did then and there, falsely, unlawfully, advisedly, corruptly, and against the duty of their allegiance, solicit, suborn, and endeavour to persuade the said Stephen Dugdale, that he the said Stephen Dugdale, should retract and deny all the evidence and information which he the said Stephen Dugdale as aforesaid, had given against the traitors and popish recusants aforesaid; the said John Tasborough and Anne Price then and there falsely, unlawfully, unjustly, and advisedly, corruptly promising, and either of them promising to the said Stephen Dugdale great sums of money and rewards, if he the said Stephen Dugdale would retract and deny all the evidence and information by the said Stephen Dugdale, against the traitors and popish recusants aforesaid, as aforesaid given, and would withdraw and absent himself the said Stephen Dugdale, in places unknown and beyond the sea: and that the said John Tasborough and Anne Price, their wicked devices, practices and intentions aforesaid to fulfil and accomplish, afterwards, to wit, the said 12th day of October, in the year of the reign of our said sovereign lord the king the 31st aforesaid,

at the parish aforesaid in the county aforesaid by force and arms, falsely, unlawfully, unjustly, advisedly, and corruptly, and against the duty of their allegiance, did produce and shew and each of them did then and there produce and shew to the said Stephen Dugdale, a certain note in writing, the tenour of which note follows in these English words following
 ' Being touched with a true remorse of conscience, and hearty sorrow for the great ill I did in coming in a witness against the Catholics, and there speaking things which in my own conscience I knew to be very far from the truth: I think myself bound in duty both to God and Man, and for the safety of my own soul, to make a true declaration how I was drawn into this wicked action. But being very well satisfied, that I shall create myself many powerful enemies, upon this account, I have retired myself to a place of safety, where I will with my own hand discover the great wrong that hath been done the Catholics, and hope it may gain belief. And likewise I protest before Almighty God, that I have no motive to induce me to this confession, but a true repentance for the mischiefs I have done, and hope God Almighty will forgive me.' And that the said John Tasborough and Anne Price, the day and year aforesaid, in the parish aforesaid, in the county aforesaid, with force and arms, falsely, unlawfully, unjustly, advisedly, corruptly, and against the duty of their allegiance, the said Stephen Dugdale the aforesaid note in writing, so as aforesaid, to the said Stephen Dugdale produced and shewn to sign and subscribe, did solicit and endeavour to persuade, and each of them did solicit and endeavour to persuade, and then and there falsely, unlawfully, unjustly, advisedly and corruptly did promise, and each of them did promise to the said Stephen Dugdale, that if he the said Stephen Dugdale, the aforesaid note in writing would sign and subscribe, that then he the said Stephen Dugdale great and vast sums of money should have and receive; to the evil and pernicious example of all persons in the like case offending, and against the peace of our said sovereign lord the king, his crown and dignity, and against the duty of their allegiance."

* The Latin indictment runs thus:

Rex versus Tasborough and Price for Subornation of Perjury.

Pascha, 32 Car. 2, B. R.

' sc. Alias scilicet die, &c. ult' præterit' coram Domino Rege apud Westm', per sacramen' 12 jur' probor' et legalium hominum com' præd' jurat' et onerat' existen' ad inquirend' pro dicto Dom' Rege et corpore com' præd, præsent' existit', quod cum quidam Tho' White, alias Whitebread, Clericus, Johannes Fenwick Clericus, Willielmus Harcourt, alias Harrison Clericus, Johannes Gavan Clericus, Anthonius Turner Clericus,

To this Indictment they have pleaded Not Guilty, and for their trial have put themselves upon the country, and the king's attorney likewise, which country you are: your charge is to

et Jacobus Corker, falsi proditor contra serenissimum Dominum nostrum Carolum secundum, Dei gratia Angli, &c. 13 die Junii, anno regni dicti Domini regis nunc 31 ad deliberationem gaol dicti Domini Regis de Newgate, teint per adjournament pro com præd apud Justice-Hall in le Old Bailey, in suburbis civitatis London, coram justic ad gaol præd adtunc et ibidem deliberand assign, steterunt indictat pro compassionem (Anglice the compassing) mortis et finalis destruction dicti Domini Regis, et al altis prodicionibus in eodem indictamento specificat posteaque ad session præd præd T. W. alias, &c. J. F. W. H. alias, &c. J. G. et A. T. per jurat patriæ adtunc et ibidem debito modo indet triat et convict fuer, et per judic cur adtunc et ibidem debito modo attinct fuer, prout patet per record inde juratoribus præd in eviden ostens: Cumque etiam quidam Ricardus Laughorn Ar postea scilicet ad deliberationem gaol dicti Domini Regis tent per adjournament pro civitat London apud Justice-Hall præd, coram justiciar ad gaol præd adtunc et ibidem deliberand assign, 14. die Junii, anno regni dicti Dom Regis nunc 31. suprad legitimo modo stetit indictat pro compassatione (Anglice compassing) mortis et final destruction dicti Domini Regis, et al altis prodicionibus in eodem indictamento specificat; posteaque superinde ad eandem session triat per jur patriæ, et adtunc et ibidem per judic cur adtinct fuit, prout patet per record inde juratorib præd similis in evidenc ostens. Cumque etiam quidam Stephanus Dugdale super separal triation indictament præd fuit testis product et jurat ex parte dicti Domini Regis nunc, et adtunc et ibidem legitimo modo material evidenc versus præd T. W. W. H. J. G. A. T. et R. L. dedit ad proband ipsos culpabil de materia in præd indictamento specificat, quidam Johannes Tasburgh, nuper de, &c. Gen, alias dict J. Tisburgh de, &c. Gen, et Anna Price de, &c. Spinster præmissa præd satis scien et existen person diabolice affectat erga serenissimum Dom nostrum Carolum secundum nunc Regem Angli, &c. supremum et naturalem Dominum suum, ac machinant et tot virib suis intenden pacem et communem tranquillitat hujus regni Angli, perturbare, impedire, et suppressere (Anglice to stifle) ulteriorem divulgationem (Anglice discovery) dictar prodicion, et, quantum in ipsis fuit, debitum legis cursum eludere, nec non causare et procurare quod credit foret, quod person sic ut præfertur attinct, minus juste attinct fuissent, præd J. T. et A. P. ante triation præd W. H. scilicet præd 13 die Junii, anno, &c. nunc 31. suprad, apud paroch sancti Andreæ Holbourn in com Midd, falso, illicite, injuste, corrupte, et contra ligeanc

enquire, whether the defendants, or either of them, be Guilty of the trespass and offence whereof they stand indicted, or Not Guilty: if you find them or either of them Guilty, you

sue debit solicitabant, subornabant, et conat fuer persuader, et uterque eor adtunc et ibidem solicitabat, subornabat, et conat fuit persuadere præfat Stephanum Dugdale, quod ipse præfat S. D. non foret testis, nec daret evidenc versus præfat W. Harcourt, alias, &c. super triation ipsius W. H. alias, &c. pro prodicionibus præd, Et quod præd J. T. et A. P. post triation præd scilicet 14 die Octobr, anno, &c. nunc 31 supradicto, apud præd paroch sancti Andreæ Holbourn in com Midd, falso, illicite, injuste, advisate, contra ligeanc sue, debit solicitabant, subornabant, et conati fuer persuadere, et uterque eor adtunc et ibidem, falso, illicite, advisate, corrupte, et contra ligeanc sue debitum solicitabat, subornabat, et conat fuit persuadere præd Stephanum Dugdale, quod ipse præd Stephanus Dugdale retraheret et denegaret totam evidenc, quas ipse præd S. D. ut præfertur, dedisset contra præd proditor eisdem J. T. et A. P. adtunc et ibidem falso, illicite, injuste, advisate, corrupte promitten et uterque eor promitten præd S. D. magn et ingent denar sum et mercedes, si ipse præd S. D. retraheret et denegaret totam evidenc per ipsum S. D. versus præd proditor, ut præfertur, dat, et seipsum S. D. in locis incognit et transmarin retraheret et absentaret. Et, quod prædi J. T. et A. P. ad nequissimas machination, practication, et intention suas præd perimplend et pro perficiend, postea scilicet 14 die Octobr, anno, &c. 31. suprad, apud paroch santi Andreæ Holbourn præd in dicto com Midd, falso, illicite, injuste, advisate, et corrupte contra ligeanciar suar debit, produxer et ostender, et uterque adtunc et ibidem produxit et ostendit præfat S. D. quandam notam in scriptis, tenor cujus quidem notæ sequitur in his Anglican verbis sequen, videlicet, "Being touched with a true remorse of conscience, and hearty sorry for the great ill I did, in coming in a witness against the Catholics, and there speaking things which in my own conscience I know to be very far from the truth, I think myself bound in duty both to God and man, and for the safety of my own soul, to make a true declaration how I was drawn into this wicked action: but being very well satisfied that I shall create myself many powerful enemies upon this account, I have retired myself to a place of safety, where I will with my own hand discover the great wrong, that hath been done the Catholics, and hope it may gain belief. And likewise I protest before Almighty God, that I have no motive to induce me to this confession, but a true repentance for the mischiefs I have done, and hope Almighty God will forgive me." Quodque præd J. T. et A. P. postea scilicet dicto 14 die Octobr, anno, &c. nunc 31 su-

are to say so; if you find them Not Guilty, you are to say so, and no more, and hear your evidence. Crier, make an O Yes.

Crier. O Yes! If any one will give evidence on behalf of our sovereign lord the king, against the defendants John Tasborough and Anne Price, let them come forth and they shall be heard.

Mr. Belwood. May it please your lordship, and you gentlemen of the jury, the defendants, John Tasborough and Anne Price, stand indicted for subornation of perjury: and the indictment sets forth, that whereas Thomas Whitebread, William Harcourt, and others, were indicted, and that for treason, in conspiring the death of the king, and other treasons, and were legally tried, convicted, and attainted for the same; and that Richard Larghorn was likewise indicted and attainted for the same offence: and that upon these trials Mr. Dugdale was produced and examined as a witness for the king, and did depose materially against the said traitors: and the defendants knowing this, and contriving and designing to stifle the discovery of the treasons aforesaid, did before the trial of the said Harcourt solicit, suborn, and endeavour to persuade the said Mr. Dugdale not to be a witness, nor to give evidence upon the trial: and after the trial, did farther solicit him to retract and deny all the evidence he had given on that behalf, and promised him large rewards and great sums of money for it: and to accomplish this, they did incite him to withdraw and retire himself, and produced a note which he was to sign, and which hath been read to you, wherein he was to acknowledge that he was in an error, and had sworn falsely, and therefore had retired himself; and for this they promised him great rewards: and this offence is laid to be done falsely, advisedly, corruptly, and against the duty of their allegiance. To this the defendants have pleaded Not Guilty; if we shall prove the fact upon them, we hope you will find it.

Serj. Maynard. My lord, and you the gentlemen of the jury, I am of counsel in this cause against the defendants. For the fact that is laid in the indictment, it consists of

‘prad’, ad paroch’ sancti Andreæ Holbourn
‘præd’ in com’ Midd’ præd’, falso, illicite, in-
‘juste, advisate, corrupte, et contra ligeanc’
‘suar’ debitum, præfat’ Stephanum Dugdale
‘ad præd’ notam in script’, sic ut præfertur,
‘eidem S. D. product’ et ostens’ signare et sub-
‘scribere sollicitabant’ et persuadere conat’
‘fuer’ et uterque eor’ adtunc et ibidem solici-
‘tabat et persuadere conat’ fuit, et adtunc et
‘ibidem falso, illicite, injuste, advisate, cor-
‘rupte promiser’, et uterque eor’ adtunc et
‘ibidem promissit, quod si ipse præd’ S. D.
‘præd’ notam in script’ signaret et subscribe-
‘ret, quod tunc ipse præd’ S. D. magn’ et in-
‘gent’ denar’ sum’ haberet et reciperet, in ma-
‘lum et perniciosum exemplum omn’ al’ in tali
‘casu delinquen’, ac contra pacem dicti Do-
‘mini Regis, coron’, et dignitat’ suas, &c.’

these particulars: 1. An attempt to prevent the evidence before it was given. And 2. When it was given, and the traitors were convicted and condemned, then to disgrace that evidence, and the proceedings at law that hath been against the traitors; and this in favour of the Catholics. 3. The means they used to persuade him, which was by corrupt promises and engagements to him. And, 4. That they had prepared a note which hath been read to the jury; whereby he that had sworn the truth, should publicly own to the world that he had sworn a lie: and that the Catholics had received great injury by him, and that he had withdrawn himself to make this discovery: and this is the substance of the charge upon these persons. This practice, my lord, is not new, it hath appeared here in several other instances: we remember what Reading did, and we have not forgotten what Knox and Lane did; and this is the third cause of that kind that hath come before you. Our evidence will be this: we shall produce Mr. Dugdale, the person against whom this design was laid, and he can testify all this matter. Now he was but a single person against these two tempters; and your lordship remembers what was said in the like case, two might convince one; and therefore he thought it safe to acquaint, and he did acquaint persons of public concern and authority with this attempt upon him; and he did not only this, but they met several times about it at the tavern, and there we shall prove what they did. Part of this hath been confessed, for this hath had another examination in another place: and the gentlewoman hath confessed, that she did offer him sums of money; for it we will call our witnesses. We shall not now aggravate the fault, that will come after the evidence given; but I think it is hellish enough if it be proved.

Attorney General (sir Creswel Levinz.) My lord, this case is of the same nature with those that Mr. Serjeant hath mentioned of Reading, and Knox and Lane; but it goes somewhat further: For this must be done in writing, and subscribed by the party, to be produced upon occasion, to defame all the evidence that had been given before: And the substance of the note is to recant all that he had said, and aver it to be false; and so all that have died upon that account, must have been supposed to have died very unjustly. This was the design of the matter: and it was not only in this case that these persons had been endeavouring things of this nature; for we can prove, if it be necessary, by another witness, that this gentlewoman hath been tampering to persuade him to retract his evidence against another person, one Mr. Parsons, a priest in custody; and to bring all about, she did presume upon Mr. Dugdale’s old acquaintance with her: They had been fellow-servants in my lord Aston’s family, and by that means were of ancient acquaintance; and she did presume upon these grounds, that she could withdraw him from all his evidence. And we shall prove, I think, by another witness

which does fortify this testimony, that both these persons have already acknowledged this fact, and that they personated great persons in it; that is, they pretended to come in the name of very great persons, as you will hear, when they had nothing to do in the thing. They pretended to go to Windsor for pardon and assurances of protection, and they have acknowledged it; and it is in proof that they were never near that person: That is, Mrs. Price did pretend she should go down to Windsor and speak with the duke of York, for he was the person named, though it is acknowledged, and was in proof by her companion, that she never came near him, that is, by Mrs. Harris, of whom you will hear anon. And Mr. Tasborough did pretend the same thing to Mr. Dugdale, and did acknowledge it to the council, but denied that it was true. We shall call our witnesses, and prove the fact as it hath been opened.

Serj. Maynard. We will first prove the indictments that are recited, and call for the records of the convictions.

L. C. J. (sir William Scroggs). Sure they will admit that.

Serj. Maynard. We must offer our proof; if they will admit it, so.

L. C. J. What say the counsel for the defendants? do you admit the indictments and convictions?

Mr. Pollerfen. My lord, I cannot tell in this case; If we should not stand upon it that all the proofs be given, our client perhaps will take it ill. I pray therefore the evidence may be given according to law.

L. C. J. Well, if you stand upon it, they must prove it. Produce the Records.

Att. Gen. Give Mr. Clare his oath. [Who was sworn.]

Serj. Maynard. Put in the copy, Sir. [Which was done.]

Cl. of Cr. Come, Sir, is that a true copy?

Clare. Yes; I examined it.

L. C. J. Where?

Clare. With Mr. Adderley, the clerk of the peace of Middlesex; and this other with Mr. Tanner, clerk of the peace for London.

[Then the copy of the Record of the Conviction of Whitebread, &c. was begun to be read.]

L. C. J. Let them see it that are for the defendants.

Justice Dolben. Don't read it all; if they have any exception to it, let them make it: Give it over to them.

Mr. Pollerfen. Aye, my lord, let us see it. Pray, Sir, you say you examined this, is this a true copy?—Mr. Clare. Yes, it is.

[Then also the Conviction of Langhorn in London, was read.]

Justice Dolben. That is the Conviction at Newgate.

Justice Pemberton. Well, go on with the rest now.

L. C. J. Go on with the evidence.

Justice Pemberton. Who do you begin with? who do you call first?

Mr. Belwood. Mr. Dugdale, my lord! [Who was sworn.]

Price. Stand nearer me, Mr. Dugdale.

Att. Gen. He stands near enough.

Serj. Maynard. He will be near enough you by and by, Mrs. Price.

L. C. J. Come, Mr. Dugdale, what say you against Mrs. Price and Mr. Tasborough?

Dugdale. My lord, Mrs. Price being an ancient acquaintance of mine (for she was my fellow-servant at my lord Aston's, may it please your lordship) I coming to town as a witness for the king, I did send for Mrs. Price as one of my ancient acquaintance; I think it was in January was twelvemonth.

L. C. J. Is she a papist?

Dugdale. Yes, I think she is now: we used to go to mass together in the country.

L. C. J. She was one, but is she?

Dugdale. I suppose she is one; we had familiarity together, but never till June last did she endeavour to take off my evidence.

L. C. J. When was it she first set upon you?

Dugdale. She began to tamper first the night before Harcourt's trial.

L. C. J. But she had been before with you in London?

Dugdale. Several times: For I sent to her presently after I came to town; but that was the first time she offered to take off my evidence. And she was then persuading me to be out of the way, and not to give any evidence against Mr. Harcourt, because he was her ghostly father.

L. C. J. Who was by?

Dugdale. There was nobody by, but one that was an acquaintance of mine that heard her.

L. C. J. What is his name?

Dugdale. Wright.

L. C. J. Then you two and Wright were together?

Dugdale. Yes, my lord.

L. C. J. What said you to her when she made that offer to you?

Dugdale. I told her I could not do it; for that I was to appear the next day, and was to give my evidence, or I must be forsworn: In any thing else I told her I would serve her; but that I could not do, because I should forswear myself; and I was sworn next morning. It continued two or three days, or a pretty while, before I saw her again.

L. C. J. She was angry for a while with you, was she?

Dugdale. She was afterwards well reconciled to me, and after she desired me that I would speak to your lordship, on behalf of one Mr. Parsons, a prisoner in the Gatehouse, that he might be bailed out; I told her I would; I know not whether I did or no certainly, I suppose I did speak to some of your lordship's servants; I do confess it was not done: but I

was to go into the country, into Staffordshire, and just as I was going to take coach, she sent a messenger to me to speak with me before I went. I said I could not stay to speak with her that morning, but I would remember her business when I came to town again; I supposed it to be this about Mr. Parsons. I went into Staffordshire, and continued there about six or seven weeks; I was there at the assizes with your lordship. Now she had been several times at one Mr. Cross's (where we usually met) to enquire when I came to town, and did desire she might know when I came, for she had important business to communicate to me. I think this might be about the 11th of September last, my lord. When I came to town, I came to Mr. Cross's that very night, and they told me of this, That Mrs. Price had been there several times to request them, that whenever I came she might have notice. I denied it that night; I am very weary, said I, and therefore would not have her sent for. Within two or three days after, I came there again, and she was sent for: I cannot tell whether by my direction, or whether they sent for her of their own accord, they can best testify that; when she came to Mr. Cross's, the first thing after salutation from my journey, she asked me if I had spoken to your lordship about Mr. Parsons? I told her, No, not as yet; but I would go strait up to your lordship's house, and speak with you about it. No, said she, you need not now do that, for we have a greater work in hand; which work was this: She told me she was come from a great person, whom she did not then name, to tell me, that if I would retract my evidence (this was the short of it, there were more particulars) and go beyond seas, I should either be in the duke of York's court, or I should be supported by him.

L. C. J. Did she name the duke of York then?

Dugdale. Not the first time; she said she was come from a great person, but named him not: The second time she named him, when I desired to know who the great person was.

L. C. J. But what said she the first time, if you would retract, what then.

Dugdale. I was to have a thousand pounds paid into a merchant's hands, to be secured for me till I came back to give evidence for them. I was to take the Plot off from the catholics, and to lay it wholly upon the protestants. I was to swear against some persons, as Mr. Tasborough told me; that after I was got on ship-board, I was to do a great deal of more service, and come to swear against a great person, a person of considerable note, whom yet they did not name.

L. C. J. But before you depart from what Mrs. Price said to you, make an end of her discourse, when she told you, you should have a thousand pounds deposited into what merchant's hand you thought fit.

Dugdale. I think not that, but into a merchant's hand.

L. C. J. Well, what should you do for it?

Dugdale. I was to retract all my evidence, and to be no witness against them; but before I would much encourage this, I went to my lord that was then president of the council, my lord Shaftsbury.

L. C. J. Who was by when this discourse was? was the third person by you speak of?

Dugdale. There were others by afterward; but there was nobody but we two together, I think at that time: But I went to that noble lord my lord Shaftsbury, and acquainted him and Mr. Hambden and Mr. Charlton with it: For she threatened, that all the king's evidence would in a short time be hanged; and if I would come over to them, it should all be turned upon the Protestants. The duke had a wise counsel, and had contrived it so, that if I would come over to them, there would not be a papist that should suffer more: but their religion should be established in half a year, and all the witnesses brought to condign punishment. When I acquainted these persons I named with this, and communicated it to them, they thought fit I should go on a little with her to trepan her, to see what kind of Plot it was they were designing; and I did give encouragement; but not so far as to set my hand to any paper. But when it did come out, the contrivance they spoke of did prove Mr. Dangerfield's Plot, as appeared afterwards. So, as I was saying, I did encourage this to Mrs. Price, to see what I could get out of her; for I knew their Plots were dangerous and barbarous when I was amongst them; but I never designed to prosecute them at any bar, but only to know the depth of their contrivance. And these gentlemen thought it very fit I should have some evidence to testify for my innocency, if they should prosecute me: And I did get two persons, one Dr. Chamberlain and his clerk, who were to be in a private place to over-hear what was the communication between us; and when I had placed them, I asked Mrs. Price, whether I first began the tampering or she, she answered she did, and I reckoned up all the heads of our former treaties, though not the particulars.

L. C. J. When did Mr. Tasborough first appear in this matter?

Dugdale. My lord, he never appeared but twice, and it was about the 12th of October, I think, the first time. We appointed to meet at the Green-Lettice, that was with Mrs. Price, for I never saw the face of Mr. Tasborough before that time, and from thence we adjourned to the Pheasant in Fullers-rents.

L. C. J. There was the first time you met with Mr. Tasborough, you say?

Dugdale. Yes, my lord.

L. C. J. What discourse had you with him when you first met him?

Dugdale. My lord, when we came there, Mr. Tasborough was at first pleased to open the business to me, that Mrs. Price had acquainted him that I would come over to them. I sat a good while and said nothing, and when I did speak, I did rather give encouragement than speak against it.

L. C. J. What did he tell you?

Dugdale. He said, he was brought there to confirm what Mrs. Price had promised me.

L. C. J. Did he say so?

Dugdale. Yes, because I would not take it upon her word alone, but desired to have some other sufficient person: and she told me, he was an honest sufficient gentleman, and I might confide in him, and he said, what she had promised, should certainly be made good, and that he came likewise from the duke of York, as he said, to confirm those promises had been made me of his encouragement and protection.

L. C. J. Did he express particularly of what should be made good?

Dugdale. My lord, in general.

L. C. J. Did he mention the money that was to be paid into the merchant's hands?

Dugdale. In general words only; all would be made good.

L. C. J. Then he did not say, the money, but what had been said to you by her should be made good?

Dugdale. We had some particulars mentioned, but I cannot positively remember which.

Attorney General. I desire, my lord, the jury may take notice of this, that what she had promised, was, if he would retract his evidence.

Just. Dolben. Did he intimate that?

Dugdale. The second time when he came,—

L. C. J. But before you come to the second time, let us make an end of the first: Repeat what he told you, when he came to you. You say, he said I am informed by this gentleman, that you intend to come over to us; what then.

Dugdale. He told me a great many things for my encouragement; if I did come, that it was a very charitable act, and it was nothing but what was acted like a christian; and if I had done amiss, I might have pardon for it; and he did say, he was encouraged by more than the duke of York, that had taken my matter into consideration.

L. C. J. What was it in general words?

Dugdale. It was, if I would come over, and retract what evidence I had given. And he said whatever things had been promised me should be sure to be made good. Then my Lord, the second time we did adjourn till Tuesday following; and then we met (as I think) at the Six Cans in Holborn, and it was pretty late that time we met; so Mr. Tasborough and Mrs. Price did tell me it was the last time they were to come.

L. C. J. What, the second time, of Tasborough's coming?

Dugdale. Yes, my Lord, and they offered me this note. I had the note before left with me to consider of it.

L. C. J. Who had given you the note?

Dugdale. Mrs. Price gave me the note.

L. C. J. Did Mr. Tasborough leave you before the note was given you? For look you, when he told you about retracting your evi-

dence, and that this is nothing but what you may lawfully do, it is a charitable act—

Dugdale. That was the first time, my Lord.

L. C. J. Did he produce the note then?

Dugdale. He and she together did.

L. C. J. Who was it had it?

Dugdale. Mrs. Price had it from me, and produced it before Mr. Tasborough's face.

L. C. J. Did she give it to him to read?

Dugdale. Mr. Tasborough did read it, and reading it said, this is nothing but what you may lawfully do; there is no hurt in it.

L. C. J. And then he went away and left you and Mrs. Price together; what became of the note?

Dugdale. Then Mrs. Price after some importunity left the note with me, and I delivered it to Dr. Chamberlain to copy out. And Mr. Tasborough and Mrs. Price at the second meeting told me, that was the last time of meeting, and if I did not then sign it, it would be much to my prejudice; and that they should not be able to do any thing for my advantage, if I did not sign it before the Duke went into Scotland. He was then going and it should be much for my benefit if I signed it first; but Mr. Tasborough said, he could do me no more service except I did that.

L. C. J. He said, that that was the last time, and if you would do it, it would be for your advantage?

Dugdale. Yes, my Lord.

L. C. J. What said you then, did you produce the note again?

Dugdale. My Lord the note was delivered to Mrs. Price, and she brought it thither for me to sign it, and laid it upon the table, and pressed me to sign it.

L. C. J. I thought you had said she had given you the note?

Dugdale. Yes, but I gave it her again before we met the second time.

L. C. J. And who produced it then?

Dugdale. She again the second time. But my Lord, we have missed one thing about Mrs. Price. When she was persuading me, she made use of the duke of York's name, and said she would go down to Windsor to persuade the duke that I should have my pardon: accordingly she did go, as I believe; for she took coach at Charing-Cross, and as she said, did go to Windsor, and brought me word back again, that the duke did not seem to countenance it much, for fear he should be drawn into a præmunire himself; and then she told me the duke did wish her to acquaint the Spanish ambassador with it; and she did go and acquaint him with it, as she told me. I asked her when I should go to speak with the ambassador about it; she told me that the Spanish ambassador could not speak English, and it was not safe to trust an interpreter that they did not know; and so it was to be deferred a little longer; but she said, that he would protect me, and that all that she said that the duke had promised for my reward and for my safe going beyond sea, he would be ready to do it; and she told me, that the Spa-

nish ambassador would write letters into Flanders. And so they made use of the duke of York's name; but I could never find by any thing nor can say, though they made use of the duke of York's name; that he did countenance any such thing, or ever knew of it.

L. C. J. How long was this before the duke went away?

Dugdale. It was about the twelfth or fourteenth of October. The duke went the beginning of November from hence.

L. C. J. Sir Thomas Doleman, do you know when the king came to town from Windsor?

Sir T. Doleman. No, I do not know.

Dugdale. It was before the duke went over into Flanders that the king was at Windsor. For the king and the duke of York came from Windsor, and then the duke went to Flanders again, and then she went, as she said, to Windsor, and came home either the day the duke came from Windsor, or the day after.

L. C. J. Her discourse when she went to Windsor, was before the duke went into Flanders?

Justice Pemberton. The second time you mean.

Dugdale. Yes, my Lord, the second time. For may it please your lordship, I do remember now, that the day when the duke of York came back again from Flanders, I think it was the twelfth of October, that was the time that I saw Mr. Tasborough first, and that was the time they produced the note, and I shall produce some witnesses to prove that he had discourse with me then.

L. C. J. I would only know the time when she told you she went to Windsor, to speak with the duke of York?

Dugdale. My Lord, to the best of my remembrance, and as I think, it was the day before the king came from Windsor, that she went down.

Just. Pemberton. He cannot swear to a day, it is hard to put him to that.

L. C. J. He is not asked to a day, but we would be at some certainty about the time, as near as we can.

Dugdale. My Lord, this I dare positively say, she went down on a Tuesday, and that was the day before the duke of York came from Windsor.

Justice Pemberton. He does give us the time as near as possibly he can.

Att. Gen. Have you a copy of the note, Mr. Dugdale?

Dugdale. Yes, my lord, I have.

Serjeant Maynard. Now we will prove that note.

Att. Gen. For the note itself, your lordship observes, Mrs. Price had the original back again, but your lordship hears Dr. Chamberlain took a copy of it, and he will prove it.

Then Dr. Chamberlain was sworn.

L. C. J. Did she shew you the note at the time that she went to the duke to Windsor?

Dugdale. The note was produced when the duke came from Flanders, the day I think he came, and that was in October.

L. C. J. When did Tasborough and she meet with you?

Dugdale. When the duke of York came back from Flanders.

L. C. J. When was that?

Dugdale. My lord, I think it was the 12th of October. Mrs. Price had appointed Mr. Tasborough to come to confirm what she had said before, which was the time that I saw him first.

L. C. J. When was that?

Dugdale. The very day the duke came from Flanders, as I think.

L. C. J. Well then, she talked to you of the duke of York, and going to Windsor, before ever you saw Tasborough.

Dugdale. Yes, my lord.

Justice Pemberton. And so his evidence was.

L. C. J. So then here is the matter, that the jury may understand the evidence; she solicited him the first day before Harcourt's trial: Then the next was three or four days after the trial; and then she endeavoured to persuade you to retract your evidence, and go beyond sea.

Justice Pemberton. No, my lord, that was only to get the man bailed that was in the Gatehouse.

L. C. J. Did she not the second time propose that?

Dugdale. No, my lord, not till I came forth out of the country again.

L. C. J. Then you went into the country before the great matter was spoken to?

Dugdale. Yes, my lord.

L. C. J. And then she left word at the house, that she might know when you came, and when she met with you, she began to tamper with you, and said you should have 1,000*l.* paid into some merchant's hand, and be well looked upon, and after that she said she would go down to the duke to Windsor.

Justice Pemberton. But at that time she told him, he should have a place in the duke's court.

L. C. J. Did she produce the note the first time you saw Tasborough?

Dugdale. Yes, my lord, the note was produced the first time.

L. C. J. And Tasborough read it.

Dugdale. Yes, he read it.

L. C. J. And said you might lawfully do it?

Dugdale. Yes, my lord.

L. C. J. When was the second time?

Dugdale. It was within a few days after, about two or three days.

L. C. J. You are not asked to a day, was the note produced a second time?

Dugdale. Yes.

L. C. J. And then he was upon the same matter still, when you swear the note was produced the second time?

Dugdale. Yes, my lord.

L. C. J. And then he said, this is the last time we must offer it to you, if you do not do it now, I can do you no good.

Dugdale. Yes, my lord.

L. C. J. But her discourse was before all this, that she would go down to Windsor and get your pardon?

Dugdale. Yes, my lord.

Justice Jones. Before your acquaintance with Tasborough?

Dugdale. Yes, before ever I saw him.

Justice Pemberton. Tasborough was to confirm it.

Dugdale. Yes, for I made some scruples about it, for they said before the duke would believe me real, I must subscribe the note, which I would not do without further assurance. She promised a person of good sufficiency and quality should engage for the performance, and one Mr. Perkins, as she said, was to be sent for, and was sent for out of the country, and 3*l.* 10*s.* expended in sending for him. And I said to Mrs. Price when 1,000*l.* was proposed, Lord in heaven! that is too much money, 100*l.* is enough to serve me; said she, we must have a care how we manage this matter; for she told me the duke of York stood upon a tickle point, and if it should be known the duke tampered with the king's witnesses, it would ruin him; but she said 1,000*l.* was prepared for me, if I would go beyond sea into Flanders, where I should be maintained and protected. But I objected my fear of the Inquisition in Spain, which I knew to be so cruel a thing, therefore I would not go beyond sea. Then she asked me if I would be contented with the protection of a protestant earl's house?

L. C. J. Did she tell you his name?

Dugdale. She asked me if I could not be content to be in a protestant earl's house, and not go beyond sea? but she named nobody.

L. C. J. When you said you were unwilling to go beyond sea, for fear of the Inquisition, she offered you the protection of a protestant earl's house, and you desired to know who it was, but she named nobody.

Justice Pemberton. And you say when Mr. Tasborough came to you, he told you, if you would retract your evidence, all the promises that had been made to you by her should be made good?

Dugdale. Yes, my lord, and without I would sign the note, the duke and the rest of the gentlemen could not be serviceable to me.

Justice Pemberton. And he pressed you to do it before the duke went into Scotland?

Dugdale. Yes, my lord.

Mr. Belwood. Pray, Mr. Dugdale, what discourse was between you and Mr. Tasborough concerning the trial of sir George Wakeman?

Dugdale. The last time, the second time we were together—

L. C. J. Then you were but twice with Tasborough?

VOL. VII.

Dugdale. No, my lord, but that second time, you may see, says he, what a progress hath been made by the acquitting of sir George Wakeman, even that the protestants themselves are at a stand about their belief whether there be a plot or no, and if you come over to us, it will overthrow all.

L. C. J. Had he any discourse with you about the Spanish ambassador?

Dugdale. My lord, I cannot tell whether he had or no, she had.

L. C. J. Did she say he would undertake the making good of the promises?

Dugdale. Said I, Mrs. Price, suppose I should come over to you, what would it advantage you? There is Mr. Oates, and Mr. Bedlow, and Mr. Praunce, when I am gone. Said she, Hang them rogues, so as we do but get you over, we do not care, we can quickly do their business.

Sol. Gen. And he said, this I observe by the way, That if he came over, all the king's evidence should be hanged, and the Plot turned upon the protestants.

Just. Pemberton. Yes, he did say so, that he was told by the gentlewoman, if he would come over, the Plot should be turned upon the protestants, and the king's evidence be hanged.

Mr. Scroggs. Mr. Tasborough did not say so.

Att. Gen. Is this a true copy of the note?

Just. Pemberton. But Mr. Tasborough persuaded him to sign the note, and Tasborough did say it was a good act, and confirmed and assured him that all should be made good to him that she had promised, and desired him to do it before the duke went, that he might be the abler to serve him with the duke.

Att. Gen. Mr. Dugdale, is this a true copy of the note?

Dugdale. I have read it so often, that I do believe it is a true copy: And here is the doctor and his clerk, who will swear it was a true copy, examined with the note.

Att. Gen. Swear Dr. Chamberlain and Cleave. [Which was done.] With what did you examine that copy?

Cleave. By the paper given me by Dr. Chamberlain.

Chamberlain. My lord, I received the paper from Mr. Dugdale, my lord, and gave him order to transcribe it.

L. C. J. And that is a true copy of the paper you had from Dr. Chamberlain?

Cleave. Yes, my lord, it is.

L. C. J. Mr. Dugdale, Did you deliver that very note that Mrs. Price delivered to you, to Dr. Chamberlain?

Dugdale. Yes, I did, and received it back again from him.

L. C. J. And you copied it out from that note Dr. Chamberlain had?

Cleave. Yes, I did.

L. C. J. What is your name, Sir?

Cleave. Cleave.

L. C. J. Read the note. [Which was read as in the Indictment.]

3 M

Just. Pemberton. Was this a copy of the Note delivered to you, that you were to sign?

Dugdale. Yes, my lord, it is a true copy: And if I may not be too troublesome, there is one thing more which comes into my mind that passed betwixt Mrs. Price and me: She was instructing me how I should be conveyed beyond sea, and she mentioned the way of the packet-boat that comes from Dover, and goes every Tuesday or Wednesday. I made a shew as if I was willing to do it, but the next time she came, said she, We have thought it not to be so safe as to go in a merchant-ship, which was the way we sent all our priests over.

L. C. J. When was this?

Dugdale. My lord, it was before the duke came home the second time, it was while he was in Flanders. And being desirous to know, I pressed her to tell me what became of Mr. Ewers, my ghostly father in the country: It was a long time ere she would tell me; but at last she told me that he was conveyed over in those yachts that carried the duke of York the first time over into Flanders.

Att. Gen. Then swear Wright. [Which was done.] Mr. Dugdale, is this the man that you mentioned concerning the discourse about Harcourt?

Dugdale. He hearkened, as he told me afterwards, but I did not then know it.

L. C. J. Well, what say you, were you present at any discourse between Mr. Dugdale and Mrs. Price, before Harcourt's trial?

Wright. My lord, I was walking to and fro in the room: Mrs. Price, that gentlewoman, was talking with Mr. Dugdale at the window, and I was very inquisitive, I did think it was upon the account of marriage, or some such business, and so hearkening, I did hear her say, That Father Harcourt had been very kind to her, and that she had visited him before he went to execution, and he bid her not be troubled, he died in a good cause; and upon this account I asked Mr. Dugdale afterwards what her design was, and he said it was to withdraw his evidence.

L. C. J. How often were you in the company of Mrs. Price and Mr. Dugdale? never but that one time?

Wright. Yes, a dozen times, I believe, I have been with them.

L. C. J. When was the first time that you heard them talk concerning Harcourt? they were always very private, were they not?

Wright. Yes.

L. C. J. Well, what did you hear the first time?

Wright. It was at the Horseshoe tavern in Chancery-Lane; and then the great matter that she did desire of him was, to be kind to Harcourt, for he had been her confessor: But afterwards I remember, when he was condemned, she said she had been with him, and he had bid her be of good cheer, for he died in a good cause.

L. C. J. Was this the time that you were at the Horseshoe tavern?

Wright. The first time I heard no discourse of Harcourt then.

L. C. J. When was this? And what said she when she spoke of Father Harcourt the first time?

Wright. It was to desire him to be kind to Father Harcourt, because he was her confessor. They spoke so softly I could hardly hear them.

L. C. J. Well, how do you know then?

Wright. I asked him when he came out, what it was, and he said it was to take off his evidence against Harcourt; and afterwards she said she had been to visit him.

L. C. J. What more did she say at that time?

Wright. I could not hear any more, my lord.

L. C. J. Then all that you did hear was, She said to him, pray be kind to Mr. Harcourt, for he is my confessor; and to that effect was all their whispering that you heard?

Wright. That is all I did hear her say at that time.

Just. Pemberton. But what did you hear Mr. Dugdale say at that time?

Wright. He said it was upon the account of taking off his evidence.

L. C. J. Well, what did you hear her say afterwards?

Wright. After she was saying she had been with him.

L. C. J. How long after?

Wright. I do not know, I cannot say to the time, for I never minded it, they sent for me sometimes at their pleasure; but she said she had been to visit Father Harcourt, who took her in his arms and said, Do not cry for me, for I die in a good cause; and this I told Mr. Dugdale of again: And she did further say, If the king should command me to be burnt at a stake, I would do it, and so would any of the party. Then said Mr. Dugdale, While you give these kind expressions, yet you would cut off his head if you could; Said she, you are a rogue, and I am satisfied.

L. C. J. What, was it before the time that she said, pray be kind to Harcourt?

Serj. Maynard. We call this witness only in confirmation of Dugdale's testimony.

L. C. J. But brother, here is the matter; He says at the time that she told Dugdale he was a rogue, and she was satisfied; afterwards she came to tamper with him to do Harcourt a kindness.

Wright. She said many times, there were not four greater rogues between this and Hell gate than the king's evidence.

L. C. J. What, was it before she talked of Harcourt?

Wright. Yes, a great while.

L. C. J. That is the thing, that she should say he was a great rogue, and yet afterwards tamper with him.

Serj. Maynard. There was some love betwixt them, and they did keep company together.

Sol. Gen. This is before she began to tamper with Mr. Dugdale; but that we call this wit-

ness to prove is, that she did afterwards tamper with him, as Mr. Dugdale tells you.

L. C. J. And the thing I say is, Would she go to tamper with one she had that opinion of? It is not impossible to be so, but it is not likely.

Sol. Gen. It is not impossible nor improbable at all, with submission; who should she tamper with but a rogue, or one that she thought would be so?

Justice Pemberton. She thought as all the other Catholics did, and did desire to withdraw him from his evidence against them.

Justice Dolben. And notwithstanding that she called him rogue; yet still the witness says, he thought there was matter of love between them.

Att. Gen. Then we will call you Cross, the man of the tavern.

Justice Pemberton. It was about a matter that concerned the whole Catholic party, and if you ask them they will call them all rogues: But afterwards they will begin to tamper one with one, and another with another.

Serj. Maynard. And they take the same method with every one of them.

Justice Jones. But this is that that is said in confirmation of Dugdale's evidence, that Dugdale did immediately after tell him, that her business was to get him to retract his evidence.

Justice Pemberton. And he overheard so much, that she desired of him to be kind to Harcourt, who was her ghostly Father.

Sol. Gen. Now, my lord, as we have produced one witness to confirm one part of Mr. Dugdale's evidence; now we shall produce another witness to prove the subsequent discourses, and her persuasion of him to retract and to sign the note. And for that we call Dr. Chamberlain.

Att. Gen. We will call Cross first to prove the meetings at the tavern, he is the man of the tavern. [Who was sworn.]

L. C. J. Come, ask your question now?

Mr. Belwood. Pray what can you say concerning Mrs. Price's discourses with Mr. Dugdale?

L. C. J. Do you know Mrs. Price here?

Cross. Yes, I do know her very well.

L. C. J. What say you then to her?

Cross. I never heard any discourse from them but what was common.

Justice Dolben. But they have been often there only them two, have they not?

Justice Pemberton. Did she ever come to your house?

Cross. She hath been there several times.

Att. Gen. I would ask you this question, Sir, Whether she used not to come there and send for Mr. Dugdale, when he hath not been there?

Cross. Yes, she hath been there often to enquire for him.

Att. Gen. What frequently?

Cross. Yes, a great many times.

Att. Gen. About what time of the year?

Cross. Last Summer, in June, July, and several months.

L. C. J. What say you to September and October?

Cross. I can't say the particular months, but she hath been there, and desired me to send for Mr. Dugdale, for she had earnest business with him.

Att. Gen. Was it presently after he came to town?

Cross. My lord, she sent for him before he went out of town, and after he came to town; before he went to the assizes, and since he came from the assizes.

Att. Gen. Pray did you ever hear them speak about a priest, one Parsons?

Cross. I have heard somewhat about Mr. Parsons, That Mrs. Price did speak to Mr. Dugdale, that he should not proceed further against him than he had done.

L. C. J. Did you hear her talk about Harcourt?

Cross. Yes, I have heard her speak something, but I do not know the particulars of it.

L. C. J. But you have heard her name Harcourt's name?

Cross. Yes, I have.

L. C. J. You do not pretend this man was by at the agreement?

Att. Gen. No, we do not: but only to prove they had frequent discourses together, and that she sent for him often about business.

L. C. J. And it is to the same purpose that the other was called for, only in confirmation.

Mr. Sanders. My lord, we pray he may be asked, whether Mr. Dugdale did not sometimes send for Mrs. Price?

Cross. Not upon his own account, as I know of; for I have told you she hath been there, and left word she must needs speak with him, and when he hath come she hath been sent for.

Mr. Sanders. Do you know she hath been sent for at any other time?

Cross. Not that I know of; But when he was in the country, she came to our house, and desired that whenever he came to town she might speak with him about earnest business, and she was sent for.

Mr. Scroggs. But he does not say any thing of Mrs. Tisbury.

L. C. J. No; he came only to the Pheasant, and that other place.

Att. Gen. Now, my lord, if your lordship please, Mr. Dugdale did mention a matter that some persons were by direction to stand by and hear their discourse; we have these persons here, who will tell you how it was, Dr. Chamberlain and his clerk.

Dr. Chamberlain. My lord, some time in September, Mr. Dugdale acquainted me, that there was a design to draw him off from his evidence, and he told me that the duke of York was named in it. I said, if it were so, it were a thing of great moment, and if it could be confirmed it were well. He told me, if I would come to his chamber some morning, Mrs. Price should be there, and I should hear the discourse; and accordingly I did come the 22d or 23d of September, and was there about an

hour, and went into the closet with my clerk, and bid Mr. Dugdale speak with an indifferent voice, to see if I could hear what they said. He did so, and we did hear him. At length Mrs. Price came; the gentlewoman I had never seen, but he called her by that name, and she answered to it. They had several discourses, I could not overhear all, but the sum was, that the Spanish Ambassador was unwilling to treat with him, because it was dangerous, and he must make use of an interpreter, and that the duke of York would protect him, pardon him, and give him a thousand pound to maintain him; You know, says he, Mrs. Price, that I began not this intrigue with you, but you proposed it to me. She owned it, that she had proposed it to him.

L. C. J. Now how can you tell this is the gentlewoman?

Dr. Chamberlain. Nay, I don't know that, my lord.

Att. Gen. We don't pretend that, but will prove it by another witness by and by.

Dr. Chamberlain. It was about the 22d or 23d of September, a Monday morning as I remember.

Just. Jones. Was Tasborough there?

Dr. Chamberlain. No, my lord, none but them two.

L. C. J. Well, go on, sir.

Chamberlain. She did press Mr. Dugdale very much to go with her to the Gatehouse, he would willingly have excused it, but she pressed him so earnestly, telling him she would not go without him, that they went together, and he came up afterwards to me, where I had staid all the time.

L. C. J. Did you hear her say any thing what she would have him do for that 1,000l.

Dr. Chamberlain. I cannot tell truly any thing, but only to be gone.

Just. Pemberton. You could hear that?

Dr. Chamberlain. Yes, my lord, I did.

L. C. J. Whither?

Dr. Chamberlain. Nay, I don't remember that.

Serj. Maynard. This was before the note, my lord.

Dr. Chamberlain. Yes, my lord, for that was brought me afterwards.

Recorder. Call the other witness, Cleave.

L. C. J. How long was this before Harcourt's trial?

Dr. Chamberlain. I don't know that, my lord, it was in September.

Just. Pemberton. But the trial was long before that, soon after Trinity-term.

Syl. Gen. Pray, what did Mr. Dugdale say to her when she pressed him to be gone, did he not make any objection?

Dr. Chamberlain. Possibly he might, I did not hear all that was said.

Cleave. I was there the 22d of September.

L. C. J. In the closet with Dr. Chamberlain?

Cleave. Yes, my lord.

L. C. J. Had you ever seen Mrs. Price?

Cleave. No, never in my life that I know of.

L. C. J. What did you hear then?

Cleave. Before that Mrs. Price came, we shut up ourselves in the closet, and desired Mr. Dugdale to make a feigned discourse to see whether we could hear him, and he did so, and we heard indifferently well. We bid him to speak a little loud that we might be sure to hear him. We staid there almost half an hour before she came. Afterwards she came up, and Mr. Dugdale saluted her by the name of Mrs. Price, to which she answered. He asked her, when shall I go to the Spanish ambassador's? [This I heard distinctly; for I could see her body but not her face, she stood with her back to the door.] It is not convenient at present, said she, to go; for his interpreter is out of town. Then Mrs. Price was saying, if so be you will come over to the church of Rome, and take off your evidence, you shall have 1000l. secured to you: but how, said he? Said she, I will bring to you in a week's time a person of quality that shall secure and confirm it to you.

Dr. Chamberlain. That I heard too.

Cleave. That will be well, said Mr. Dugdale; I had rather do that way than any other. Said she, you shall have the duke of York's protection, and a pardon not only for your body, but for your soul.

Serj. Maynard. A large proffer!

Cleave. And afterwards said he, if I should come over again to the church, what signifies my going out of the way, when there is Dr. Oates and others to go on with the evidence? said she, we do not care so much for them, for the duke's eye is only upon you.

Justice Pemberton. Did you hear that, Dr. Chamberlain?

Dr. Chamberlain. No, my lord; the duke was named indeed, but I do not remember that particular. And she several times desired him to speak softly; and then Mr. Dugdale was so honest, that he repeated it over again, that if we had not heard him before, we might understand him.

L. C. J. Now prove this gentlewoman to be the person.

Cleave. She afterwards pressed him to go with her to the Gatehouse, which he seemed unwilling to do, but went; and we have a man here that stood below the stairs, that saw her come in and go out.

Serjeant Maynard. Call Holmes. [Who was sworn.] What can you say about this Mrs. Price?

L. C. J. Do you know Mrs. Price?

Holmes. Yes, That is the woman.

Mr. Belwood. Did you see her at Dr. Chamberlain's?

Holmes. I saw her at Mr. Dugdale's that morning that my master was there.

L. C. J. What time do you speak of?

Holmes. The 22d of September I went along with my master.

L. C. J. Who is your master?

Holmes. Dr. Chamberlain.

L. C. J. What day of the week was it?

Holmes. On a Monday morning between 8 and 9 o'clock.

Just. Dolben. That is the same time you speak of, is it not?

Chamberlain, and Cleave. Yes, my lord, he went along with us.

Holmes. This is the woman that came down with Mr. Dugdale; I took great notice of her, and know her very well again: There were some words spoke in the shop, but I don't know what they were.

L. C. J. Dr. Chamberlain, she went out of the chamber with him, did she not?

Chamberlain. Yes, my lord, she did.

L. C. J. How often have you seen her?

Holmes. I saw her go into the house, come out with Mr. Dugdale to go to the Gate-house, and when they came back again from Westminster, from the Gate-house.

L. C. J. How often have you seen her besides. You took notice of her when she came down stairs, and when she came back again?

Holmes. Yes.

L. C. J. And this is the woman upon your oath?

Holmes. Yes, upon my oath.

Just. Pemberton. She came down with Dugdale, and would have him go along with her to the Gate-house.

Att. Gen. My lord, we say that Mr. Dugdale did acquaint Mr. Hambden, and Mr. Charlton and my lord of Shaftsbury with the business? we desire Mr. Hambden and Mr. Charlton may be called, who promised to be here. [But they appeared not.]

Att. Gen. Then, my lord, here are the clerks of the council, they will all give your lordship an account that this woman and the gentleman did acknowledge this matter before the council, and there did deny what they had sworn at first.

L. C. J. Who do you swear first?

Att. Gen. Sir Robert Southwell. [Which was done.]

L. C. J. Come, sir Robert, what do you know?

Sir R. Southwell. My lord, she, this gentlewoman, Mrs. Price, was about the 23d of October examined before the council, and being examined, we were commanded to take notes, the several clerks of the council, and we did take notes, which were long, and, my lord, I must refer to those notes.

Justice Pemberton. Have you those notes?

Sir R. Southwell. Yes. It is hard for me to give my evidence, unless some particular question be asked me, because they are very long.

Att. Gen. Then I ask you, sir, this particular question, whether that gentlewoman did acknowledge the paper she is charged with?

Sir R. Southwell. My lord, I do remember Mrs. Price, when she was asked who it was that framed the paper for her (because it seemed to the lords as if it had been a thing so very well framed that it was beyond a woman's capacity to do it) Mrs. Price said that she studied it herself, and indited it herself, and one Mrs. Man as I think, writ it out for her; but she took it

upon herself, that she had studied it (that particular word) and contrived it.

Att. Gen. What did Mr. Tasborough say?

Sir R. Southwell. My lord, I do also remember that Mr. Tasborough was cited before the council-board: and being asked about this paper—

L. C. J. Was it shewn him?

Sir R. Southwell. I verily believe it was; it was read to him. Mr. Tasborough did speak very cautiously, and as prudently as he could in the matter: he did not positively say he had pressed Mr. Dugdale to sign it; but did tell Mr. Dugdale, that unless he did sign it; he could not proceed to get him any favour, for that was to be the foundation to testify that he was a man of that sorrow that he had expressed himself to Mrs. Price?

L. C. J. Did he own that to Mr. Dugdale?

Sir R. Southwell. Yes; and he added, my lord, further (to do him justice in all he said) in case Mr. Dugdale had signed the paper, he would presently have carried it before a magistrate.

Att. Gen. I think we need not trouble your lordship any further at present; we leave it here till we hear what they say.

Mr. Sanders. May it please your lordship, and you gentlemen of the jury; I am of counsel for Mrs. Price, that is one of the defendants in this Indictment; which, as hath been opened, does set forth, that she did contrive to suborn the king's evidence before the trials of those persons, and to suppress it; and afterwards to retract the evidence given, and go off from what before he had sworn, to disparage the justice of the realm, and to make it be believed that those persons who were condemned and executed for this conspiracy were innocent, and had wrong done them by him. Now for that matter, that which we have to offer for her is this: Mr. Dugdale and Mrs. Price were fellow-servants in my lord Aston's family, and there they did contract a more than ordinary familiarity; for in truth they did contract a marriage, and Mr. Dugdale did promise her marriage; but afterwards Mr. Dugdale having some other design, did desert her, and she came to London and lived here; but afterwards when he came up to London, he thought fit to renew his suit, and did not only send for her when he first came to London; but we have it in proof, that from time to time he had continually sent for her, and would not be quiet without her; and when she denied to come upon his sending in his own name, he sent in another woman's name, whom he knew to be an acquaintance of her's: and thus there continued all along a great intimacy between them, insomuch that several persons, and among them one of the king's witnesses, did observe they were speaking about marrying and did think they did intend to be married in a short time; my Lord, what discourse might pass between them I don't know: for ought I perceive she is proved to be a papist, and it is very like she would solicit one with whom she had that familiarity, for those of her own party

as much she as could; but as far as I perceive by this evidence that hath been given, he under colour of kindness, and pretence that he would marry her, and sending for her from time to time, at last to rid his hands of her, hath put this upon her, that she should solicit to suborn him against his conscience to withdraw his evidence. She is a kind of weak solicitrix for matter of judgment and reason; I know not what other prevalency she might have with him by any other thing, but for judgment I think——

L. C. J. If she peened that herself, as she did acknowledge and avow she did, she was a woman of good judgment certainly.

Mr. Sand. I perceive he was of good judgment to get rid of one he was weary of, by this means.

Just. Pemberton. Alas! Alas! This is such a design indeed of counterproving the king's evidence.

Mr. Sanders. Mr. Dugdale hath sworn, that this was her intrigue, and she first began with him: If Mrs. Price be admitted to swear, who is the defendant, as well as Mr. Dugdale, who is the prosecutor, she would tell you that Mr. Dugdale did contrive this matter himself.

Just. Pemberton. She would destroy his evidence that way, that's very well.

Just. Dolben. Dr. Chamberlain and his clerk both swear, That he told her, 'You know it was not I begun this intrigue, but you.'

Mr. Sanders. And if she had had but so much wit to have planted witnesses to have taken advantage of his words, she had counter-worked him.

Just. Pemberton. They will learn such ways soon enough of themselves, you need not teach them.

Mr. Sanders. If you please we will go on with our evidence, and call witnesses to prove that Mr. Dugdale had contracted himself to her in marriage; and this is a very unkind ill thing in him to serve us thus.

Just. Pemberton. Mr. Sanders, you ought to remember, *Publica privatis*, &c. A man should prefer the public good and safety of the nation before such a mistress as this is.

Just. Dolben. But hitherto the proof runs, that she sought him, and not he her.

Mr. Sanders. But they were contracted first.

Just. Dolben. And you hear what the master of the Horseshoe says about her leaving messages for him.

Just. Pemberton. He hath very good reason why he should not marry her, for what I can perceive.

L. C. J. It is much they should be contracted, when she told him he was a great rogue.

Mr. Sanders. It may be she might, I know not what cause he hath now to be displeased with her; but it may be she might be displeased with him then. But I beseech your lordship and the jury to observe; that though she did tell him he was a rogue, yet it was afterwards that she did solicit and suborn him.

Just. Pemberton. And therefore she thought plainly he was fitter for her purpose, because she took him for a rogue.

Mr. Sanders. But if she had a purpose to suborn him, she would not call him rogue to his face; that was not the way to insinuate into him. I desire sir John Nicholas may be sworn, [Which was done.]

L. C. J. What questions do you ask sir John?

Mr. Sanders. I desire, my Lord, sir John would tell us, whether Mr. Dugdale in his hearing did not own he was contracted to Mrs. Price?

Sir J. Nicholas. No, truly sir, that I know of.

Mr. Sanders. Pray, sir, will you please to recollect it; it was when Mr. Dugdale was before the council.

Sir J. Nicholas. Mr. Dugdale did then own some proposals of marriage, but nothing of a contract.

L. C. J. It is your women-witnesses are like to do that.

Mr. Sanders. That is all, sir, you remember?

Sir J. Nicholas. Yes.

Just. Pemberton. Have you put the best foot forwards, Mr. Sanders?

Mr. Sanders. Which is Mary Benwell? Swear Mary Benwell. [Which was done.] We will now prove he sent for us several times; we did not go after him so much. What do you know concerning Mr. Dugdale's sending for Mrs. Price?

Benwell. He sent for her to my house several times.

L. C. J. Did he lie at your house?

Benwell. No, my Lord, he did not.

L. C. J. Where is your house?

Benwell. In Brownlow-street.

L. C. J. What is it a public house?

Benwell. It is an alehouse, the Green-Lettice.

Just. Dolben. He told you so himself, that he did meet her at the Green-Lettice.

L. C. J. What was their discourse when they met?

Benwell. I know nothing of that, I did not hear him say any thing; but only he would come in and say, let your boy go for Mrs. Price.

L. C. J. When was this?

Benwell. The last time was Sunday seven-night before she was taken.

Recorder. (Sir George Jefferies.) She always came when she was sent for?

Benwell. Yes, if she was within.

Mr. Sanders. How often did he send for her?

Benwell. Above 20 times.

L. C. J. What great inference can you make from that? methinks it is as much against you as it is for you; for it proves there was a great familiarity and frequent meetings between them; if and it be so, it shews as if she had that great confidence in him, as to attempt upon, and attack him in this affair.

Just. Pemberton. Indeed Mr. Sanders, if you would have proved an inducement to Mr. Dugdale's evidence, you could not have proved it better, that she had great confidence in him; she had an opinion, and reckoned he was sure to her, and so had a greater influence over him than another.

Just. Jones. He sent for her to the Green-Lettrice, she sent for him to the Horseshoe; the master of the house sweareth that she sent for him 20 times, so they might send for one another 20 times a-piece.

Just. Dolben. And he never came to seek for her but when she had been there, and left word for him before.

Mr. Sanders. Now, my lord, if you please, we will go on to prove, That when she refused to come, he sent for her in another body's name.

L. C. J. What will that do? Or what does that prove?

Mr. Sanders. It is not probable then that she should solicit him: And just at the last here are some witnesses planted; and some words are taken from her mouth, that it was her intrigue all along.

Just. Pemberton. Mr. Sanders, you do not shew the time when those frequent sendings and comings were.

L. C. J. It shews that which they have proved, that she believed he was fond of her, and she was confident of him.

Just. Jones. I suppose Mr. Sanders means, and does drive at this, to shew that it was to drive on the intrigue on his part that these frequent messages were sent.

Then another Woman Witness was called and sworn.

Witness. My lord, at the time that the proclamation was for the banishing of all papists out of town, she came to me and said, If Mr. Dugdale come to ask for me do not offer to tell him where I am.

L. C. J. When was this?

Witness. Long before Easter Term; before the papists were banished out of town.

Just. Pemberton and *Just. Jones.* This was another part of the intrigue.

Witness. So Mr. Dugdale came to me, and asked me where Mrs. Price was? I told him I could not tell; but if you have any letters I will convey them by a messenger or some foot-boy to her.

Just. Jones. Did he send for her at any time in September?

Witness. The last time he sent for her was the Sunday was sennight before she was taken.

L. C. J. Did he frequently send for her a month or six weeks before that?

Witness. Yes, several times.

Mr. Sanders. Then swear Bridget Lee. [Which was done.]

Mr. Sanders. Pray, mistress, you that spoke last, did Mrs. Price ever deny herself to him, but that once when she left that word with you?

Witness. Never to me, my lord, but that time.

Mr. Sanders. Bridget Lee, pray tell my lord, whether Mrs. Price did deny herself, and the way he used to get her to him.

Lee. Mr. Dugdale came into this gentlewoman's house, and coming into the house I was in the passage; he asked me, sweetheart, let me speak with you; he desired me to tell

him where Mrs. Price was; I told him I could not tell: I wish, said he, you would fetch her to me; no, said I, I would not do it for 5s. He clapped his hand into his pocket, and said he, I will give you 5s. No, said I, I will not do it if you would give me 5l. Let every tub stand upon its own bottom.

L. C. J. What did you mean by those words, Let every tub stand upon its own bottom?

Lee. I would not meddle nor make with any thing but my own concerns.

L. C. J. How long was this before the trial of Harcourt?

Lee. A quarter of a year before that.

L. C. J. It was before he went out of town, the circuit.

Lee. Yes, my lord, so it was.

Just. Pemberton. There had been no tampering then; this was before the tampering.

L. C. J. It is no matter when the tampering was, but when Mr. Dugdale sent for her, and she refused.

Mr. Sanders. I wonder what they did together all the time before, if they were not tampering.

L. C. J. They made love together.

Mr. Sanders. What was the occasion that she refused?

Witness. I understand that Mr. Dugdale did find I was fearful of myself; you may venture, said he; for I would not do her the least wrong, nor the least hair of her head should not perish.

L. C. J. This was long before he went into the country?

Witness. Yes, my lord.

L. C. J. Before the tampering?

Witness. Yes, my lord.

Mr. Sanders. Where is that other witness, Mrs. Holland? [Who was sworn.] What do you know of Mr. Dugdale's sending for Mrs. Price? I would know the last time, and where it was.

Holland. My lord, I do not know what place it was he sent for her to, nor the last time, but it was since Christmas.

L. C. J. Since Christmas?

Holland. No, before Christmas, but I do not remember the day.

L. C. J. How do you know that he sent for her?

Holland. I was told by the people so, That a messenger was come from him for her.

L. C. J. You did not see him.

Holland. No, I did not.

L. C. J. She says nothing to the purpose.

Holland. I know Mr. Dugdale was in her company one Sunday last Lent, and was there two hours.

Just. Jones. It is agreed of all sides they were acquaintance, and had great familiarity.

Just. Pemberton. Ay, or she would never have had the confidence to have attempted upon him in this manner.

L. C. J. Well, have you any more?

Mr. Sanders. Here is one more, that is Mrs. Sheldon.

L. C. J. What do you call her for?

Mr. Sanders. To prove that there was a

note left to warn her to avoid Mr. Dugdale's company.

Just. Pemberton. Why did you not?

Mr. Sanders. It had been better for us if we had.

L. C. J. When was that note?

Mr. Sanders. Lately.

L. C. J. That will do no good.

Just. Pemberton. Come, call her however; they will say their witnesses were not heard else. [And she was called, but did not appear.]

L. C. J. Come, she is not here.

Mr. Sanders. Then, my lord, we offer this as evidence, That we had no design to suborn him to retract what he had said; the occasion of our being with him we have given you an account of.

Just. Pemberton. Why did you write your note then?

L. C. J. Mr. Sanders, what you have said amounts to nothing to avoid the evidence that hath been given for the king; for all your testimony says little more, than what he said at first; that we were fellow-servants, and well-acquainted; we made frequent visits, and when I came to town I went to see her, and she came to me: They had no discourse of this same matter of tampering till the day before Harcourt's trial; but sir Robert Southwell does say, she owned that she did study the note, which is the great business in the case: for if she prepared the note for him to sign, what can be said more?

Mr. Sanders. We can say no more but that Mr. Dugdale might dictate it.

L. C. J. No, she owned she dictated it, and got Mrs. Man to write it for her.

Mr. Sanders. I do not know, my lord—

L. C. J. But you may know, if you will; for sir Robert Southwell hath sworn, That she being examined at the council-board, the Lords of the Council had so good an opinion of the skill of it, that they asked her, who framed it for her? And she answered, she did it herself.

Just. Pemberton. Mr. Sanders, if you be not satisfied, here is another of the clerks of the council.

Sir J. Nicholas. All that sir R. Southwell hath said is true.

Sir T. Doleman. All that sir R. Southwell hath said, I can swear to every particular.

L. C. J. Well, what say you, Mr. Pollexfen?

Mr. Pollexfen. My lord, if you please to spare me a word for the other defendant Mr. Tasborough: There is in the indictment two things charged on the defendants; one, That they should persuade Mr. Dugdale not to give evidence against Harcourt: for that there is no manner of evidence against Mr. Tasborough, but he ought to be found Not Guilty for that part.

L. C. J. That is true, of that he must be acquitted.

Mr. Pollexfen. Then for the other part of the charge, That they should endeavour to persuade Mr. Dugdale to retract the evidence he had formerly given, for a sum of money, and

other rewards: We do reckon, that as this evidence stands before your lordships, whatsoever is proved against Mrs. Price, will have no influence upon Mr. Tasborough; for, although Dugdale and Price have had practices and designs amongst themselves, unless he be a party to them, if he have not a part in them they will not affect him: Then the next thing is, we must distinguish the evidence as it stands, or else it may not be by the jury so well understood how they are differenced one from another; for I would not mince the evidence, but let it stand as it is: and how far Mr. Tasborough is concerned in it, and how far may be done by him as an honest man in this matter, or how far it is an illegal act, will be to be determined by you. Now there is only two meetings that Mr. Dugdale hath had with Mr. Tasborough; and in the next place, there is no other witness to prove it but Dugdale himself, excepting only what sir R. Southwell says of the confession at the council, which, I think, will not be very much neither, as I shall shew when I come to that particular. Mr. Dugdale says, that at the first meeting, the 12th of Oct. at the Green-Lettice in Fuller's Rents, Mr. Tasborough did say unto him, that Mrs. Price had told him, Mr. Dugdale would retract his evidence, and he was come to confirm what she had said.

L. C. J. Nay, but what she had promised.

Mr. Pollexfen. Yes; what she had promised; and that he came from the duke, and that it was charitably done of him to retract; he goes no further: and that if he had done amiss he should be sorry for it. This is the evidence, as near as I can remember to repeat it.

L. C. J. Part of it.

Mr. Pollexfen. As to the first meeting—

Just. Pemberton. Look you, do not mistake, Mr. Pollexfen, but observe this: For Mr. Dugdale does swear he told him, If you will retract the evidence you have given, then all she hath promised shall be made good.

Mr. Pollexfen. That he came to confirm what she had promised. I would repeat it as right as I could, because, my lord, I hope, as this case stands, that notwithstanding all that hath been proved, yet Mr. Tasborough hath done nothing amiss. Then I come to the second meeting.

Just. Pemberton. At the first meeting the note was produced.

L. C. J. No, I think not.

Just. Dolben. Yes, my lord, it was.

L. C. J. Was it, Mr. Dugdale?

Dugdale. Yes, my lord.

Mr. Pollexfen. Yes, he does swear so, and that he read it, and pressed Mr. Dugdale to sign it; and that this was the last time, and it must be done before the duke went into Scotland, or something to that purpose. This, my lord, under favour, may all stand and be very true, and yet Mr. Tasborough not criminal, with submission. For if so be Mrs. Price were so far in her intercourse with Mr. Dugdale, that as appears by his own evidence he did seem to

comply and treat, as if he were yielding; and to do what they would have him do, concerning his going beyond seas, or being kept in a Protestant lord's house, and she had such confidence as to tell him how the priests were sent away, and how he might be conveyed away: All this thus far comes to agree with what Mr. Tasborough says for his own defence: For Mr. Tasborough says, Mrs. Price did tell me, that Mr. Dugdale was sorry for what he had sworn, and would retract all the evidence he had formerly given. Thus he says: I'll apply it to our case anon: and this appears by Mr. Dugdale's own evidence: For when he does repeat what Mr. Tasborough told him, he says, That he said Mrs. Price told him of it, and he hath not told you, that he did contradict it for false.

Just. Pemberton. Pray consider; He tells you, that Tasborough said, that Mrs. Price had acquainted him with what propositions she had made of 1,000*l.* and that he was the man that was come to confirm the promises she had made.

L. C. J. That presses you, that is the truth of it: If that had not been in the case, perhaps you do not talk much out of the way. It is true, your observation is right.

Just. Pemberton. It is ingenious indeed, but it will not hold out.

L. C. J. When Tasborough comes into the company to be acquainted with Mr. Dugdale, at that time Mr. Dugdale had been advised to comply, or seem to do so to find out the plot and design, and what he could get out by it; and without question, to pursue that end, he did shew yieldingness, and as you observe, for ought Tasborough knew, he might be sincere: But was it a good way for him to tell him; there is the matter in effect he does tell him so; if you will retract your evidence, according to this note that was produced by her, and read by him, you shall have 1,000*l.* for your pains: Can you answer that?

Just. Pemberton. Or can you answer the other, That he should say, She hath acquainted me with what you propose; that is, That you would retract all, and go out of the way, and be no more an evidence; and if you would do that, that she hath acquainted me with her proposition, which I come to confirm, that she would give you 1,000*l.* What can be made of that?

Just. Dolben. And withal, formerly there was a discourse of some person of quality that should come to him; he desired that some such one should be a security for the money, and afterwards she brought Mr. Tasborough, and said, That was the gentleman she told him of.

Just. Pemberton. Come, Mr. Pollexfen, take this too: What had Mr. Tasborough to do to use the Duke of York's name? and to say, That he had authority from him to propose these things; which certainly is a very great wrong to so great a prince?

L. C. J. That needed not to a penitent person, that was sorry for what he had done.

Pollexfen. He does indeed say, That Mr.

VOL. VII.

Tasborough should be the man that should secure the money.

Sol. Gen. And there is one thing farther, to take in all that Mr. Tasborough did likewise say to Mr. Dugdale; That there is no harm in doing this, that it is a very charitable act, and that he would do well in it.

L. C. J. But they answer that, by saying, Supposing it to be true, that Dugdale had remorse, then it would be a very good action; but to talk of 1,000*l.* to be given for it, there is the crime.

Mr. Pollexfen. Whether my answer will take with your lordship or no, I cannot tell; but the answer I would give is this; There are several things in that paper, as amongst the rest, That he should fall under great dislike and danger, and therefore was forced to hide and secure himself, for fear of those whom he should make his enemies by it, and that was terror enough to any man that should run into such a retraction. Therefore now he must live when he hath done this, and so we should apply the other part of the discourse, whatever money she had promised to take off his fears of want, and so his coming there was to make good that part of the paper, which says, he must be protected and maintained, and preserved, that he may see he hath a subsistence and provision for him, if he did deserve it. And, my lord, it will be greatly distinguishing in our case, and turn much upon this point, with submission, if I give or offer money to any man to swear a falsehood or retract the truth, it is a very great crime, and if we are guilty of that, undoubtedly our crime is very bad; but in order to the bringing of truth to discovery, and to have a retraction, not of a truth, but of a falsehood, and to preserve that witness from perishing, I may promise him protection and subsistence.

Serj. Maynard. Then you have found out a better way than the devil himself could have suggested to uphold subornation.

L. C. J. Upon my word, if that were a way that were allowable, then woe be to us, we should easily have all the witnesses tampered with by the temptation of 1,000*l.* reward. Do you think that is a good thing for a man to say, This thing was rashly said, if you will unsay it, you shall have such a reward? People would be apt to bite at such a bait, and we do not live in so virtuous an age, that 1,000*l.* will not tempt a man to unsay what he hath said at first, though what he hath said then was true.

Mr. Pollexfen. It were an unjust and unfitting thing, if it were as you say.

Just. Pemberton. Nay, Mr. Pollexfen, consider these things must not be done by any one; their way, if they had been convinced of the truth, had been to have carried the complaint to a magistrate, and there to detect him by what he had said; not to corrupt him, and persist in it, by telling him if he would do so and so, he should have 1,000*l.* By this you let in all manner of temptations to witnesses, that we shall never know where we are.

L. C. J. Come, Mr. Dugdale, (because I

3 N

will shew you all very fair play, I think very well of Mr. Dugdale.)

Just. Pemberton. He hath carried himself always well.

L. C. J. Yes truly, I know nothing to the contrary: And pray tell upon your oath, and tell the truth: Did Mr. Tasborough, when he read the note, ask of you, Is this true? Did he inquire of you, Whether or no you were really a convert, and, Whether your sorrow and repentance were true?

Dugdale. No, he never did.

L. C. J. Did he ask you, If you could do it with a safe conscience?

Dugdale. No, nothing of conscience was ever named in it.

L. C. J. Did he ask you, Whether it was true?

Dugdale. He never named truth or falsehood: It was only to get me over to retract what I had said.

Just. Pemberton. What is a temptation if this be not?

L. C. J. Truly I ask this question, That the world may see, we would find out the truth by all the ways we can; for if we had been solicitous with him, and asked him, Whether he could do this safely, and with a good conscience, and whether the matter of it were true, it would have gone a great way; but now I have asked Mr. Dugdale this upon his oath, and he says it was only to get him over to them.

Just. Pemberton. And then consider all that is said against Mrs. Price is turned upon you, except that of the contrivance to keep him from giving his evidence against Harcourt. A very subtle invention it was; but whether Mr. Tasborough was in the business of the note, in contriving it, I cannot tell, and it signifies nothing: But she having contrived as ill a note as can be penned, he is as much guilty; for he solicits as well as she, and countenances it so far, as to undertake farther, that the money and the bribes she had offered, should be paid and made good.

L. C. J. Mr. Dugdale, Mr. Tasborough talked with you of going away?

Dugdale. Yes, my lord.

L. C. J. Advised you to be gone?

Dugdale. Yes, he did: He told me I were best to absent myself for a while beyond sea, and should have convenient passage.

L. C. J. Did he mention the duke of York? What said he?

Dugdale. Yes, he said he had acquainted the duke, and the duke had given him orders to press that note home; for, said he, the duke will not believe you will be true, if you do not sign this note.

Justice Pemberton. It is never to be endured, that you should abuse so noble a prince.

L. C. J. Did you tell Mr. Tasborough then, If I come over, there is Oates, and Bedlow, and Praunce still left?

Dugdale. I did say so to Mrs. Price, but never to him.

Justice Pemberton. You see then what he

would have this note signed for, to strengthen the Catholic cause.

Mr. Thompson. My lord, will you please to spare me one word for Mr. Tasborough: I confess the evidence does seem by Mr. Dugdale to press us very hard, and particularly upon that matter of the money; but as Mrs. Price had managed the business, Mr. Tasborough might have been very innocent: but, my lord, we must make that defence for ourselves that we can in a case of this nature; and therefore it will be, I hope, no reflection to say, We must counterprove Mr. Dugdale, and disprove him as far as we can, to acquit ourselves. My lord, it is a very great crime that we are here charged with, and the crime being so heinous, ought to be well proved, and with unquestionable evidence; Mr. Tasborough, if he be guilty of what he is here accused of, is a very ill man; but men are not drawn up to great degrees of illness so soon as at the first act to attempt such heinous offences: and it is not probable, that at his first slip he should be guilty of a fault of so high a nature, and so very ill as this is. My lord, we shall call some persons that shall make it appear to your lordship, that after Mrs. Price had given us information of this repentance of Mr. Dugdale's, we did make application to a person of very great honour, no less than my Lord Privy Seal, that Mr. Dugdale might receive the discouragement which it was fitting he should in such a matter. My lord, we must call our witnesses, to prove Mr. Tasborough to be a man of a very good reputation, that he never did any such thing before; and I hope we shall give your lordship such an account of him, that the jury will have reason to believe, that Mr. Tasborough is not so guilty as he is represented, but was drawn into this matter, whatever it is. Pray call a witness to shew that Mr. Tasborough acquainted any lord of the privy council.

[Then my Lord Chief Justice went off the bench, to sit on Writs of Error in the Exchequer Chamber.]

Justice Pemberton. If Mr. Tasborough be drawn in, it is by Mrs. Price, but not by Mr. Dugdale.

Mr. Thompson. Is my Lord Privy Seal in Court?

Justice Jones. You know he is not here.

Justice Pemberton. You toss great names about, and make great noise with them, when you know they are not here.

Mr. Thompson. If he had not fallen ill, sure he would have been here. What say you, Mr. Tasborough?

Tasborough. My lord, I was to attend my Lord Privy Seal yesterday, and desired him to do me the honour to be here to-day, because I was to come to my trial: He told me he had business that would hinder him from coming; but, said he, if the Attorney General will inform himself of me, I am ready to testify, that you gave me information first of Mr. Dugdale's recantation, before it came before the council.

Justice *Pemberton*. We will do your client this right, Mr. Thompson, as to ask whether my Lord Privy Seal was at the council, and said so much then.

Mr. *Scroggs*. He was not that day, but we acquainted my Lord Privy Seal before that; but sir Robert Southwell does him this right, as to say, that he did declare, if Mr. Dugdale had signed that note, he would have gone with it immediately to a magistrate.

Justice *Pemberton*. How does that appear he said so?

Sir R. *Southwell*. My lord, he did further say, after he had said, that he would have carried it to a magistrate in that case, he did say, he had been once or twice with my Lord Privy Seal.

Justice *Pemberton*. Aye, he did say so; but there was no evidence but his allegation.

Justice *Jones*. Was my Lord Privy Seal at council at that time?

Sir R. *Southwell*. No, I think not, my lord.

Mr. *Scroggs*. It is a very strange thing we should be so forward to promise for Mrs. Price, if we had not thought Mr. Dugdale real.

Justice *Pemberton*. It is a sign you had a great inclination to the thing: well, call your witnesses.

Mr. *Thompson*. Call sir Richard Ashfield and alderman Barker.

Justice *Dolben*. It is a fine thing this to make a long brief with, to no purpose.

Mr. *Scroggs*. We have a swinging brief here indeed.

Justice *Dolben*. Aye, you come with a great brief, but no witnesses.

Mr. *Thompson*. If we do not call the witnesses named in our brief, our client will take it ill; if they do not appear, we can't help it.

Justice *Pemberton*. You have forgot what you moved the Court about Tempest.

Justice *Dolben*. But we have not forgotten, that about ten days ago you moved to put off this trial, because Mr. Tempest was your material witness; and being asked what he could prove, you said it was how you were brought acquainted with Mr. Dugdale: but because the Court did not think fit to put off the trial, Mr. Attorney did say, he would see if he had been examined, and what he had deposed, and report it to us; and afterwards did so, and did consent here that at the trial you should make use of his examination if you pleased; but we do not see that you make any use at all of it.

Mr. *Thompson*. We that are of counsel must make use of our client's witnesses as we have them in our brief.

Serj. *Maynard*. We desire they should call their witnesses, and not name names.

Mr. *Scroggs*. We desire that examination may be read.

Att. Gen. Produce it then.

Mr. *Thompson*. We have it not.

Recorder. And we for the king do not use it as evidence.

Att. Gen. Come, if it be here you shall have it read, though I believe Mr. Tempest swears

little to your purpose; for as I take it he says he does not know Mr. Dugdale at all.

Justice *Dolben*. But I told you that Mr. Tasborough puts you upon trifles.

Justice *Pemberton*. But whatsoever they put you upon, you should not trifle with us.

Mr. *Thompson*. Do you desire they should be read, Mr. Attorney?

Justice *Pemberton*. We can't read them without the consent of both parties. Do you consent to them first for whom they are produced?

Tasborough. I only desire to know by them how I came acquainted with Mrs. Price.

Justice *Dolben*. Well, you hear what Mr. Attorney says is in them; will you have them read?

Mr. *Scroggs*. It is to no purpose, then, if that be all.

Serj. *Maynard*. I desire to speak but a few words, and I am bound to speak them—

Justice *Jones*. Brother, they have more witnesses.

Mr. *Pollexfen*. These we shall now call are to this purpose, to prove Mr. Tasborough's reputation, that he is a very honest man.

Just. *Dolben*. I do not see but that he may be a fair-conditioned man in all other things.

Just. *Pemberton*. Look you, those that are in their dealings sometimes honest fair men, yet when they come to be of that religion, there they are debauched, and there they are brought to do as wicked things as can be, in favour, and to support that religion.

Then Alderman Barker was sworn.

Mr. *Thompson*. Do you know Mr. Tasborough?

Barker. Yes, I have known him several years.

Mr. *Thompson*. How long?

Barker. Fourteen or fifteen years.

Mr. *Thompson*. How have you looked upon him?

Barker. I have looked upon him as an honest peaceable man.

Just. *Pemberton*. You have known him to be a Catholic?

Barker. Yes, that I have.

Price. May I beg the favour of this honourable court, that I may speak for myself here?

Just. *Dolben*. Well, come Mrs. what will you say? But we must tell the Jury before hand it signifies nothing for evidence.

Price. I desire to speak the truth.

Just. *Dolben*. But they must not believe a word you say.

Price. Be pleased to give me leave to speak however.

Just. *Jones*. Well, go on.

Price. Sir, Mr. Dugdale does here accuse me of suborning him to retract his evidence. I do protest it is so far from it, that he importuned me, and solicited me to go to the Duke of York, and he told me if I would go, he would pay my coach-hire. Is it not so, Mr. Dugdale?

Just. *Pemberton*. You must not interrogate him.

Just. *Dolben*. The very first thing you have said hath discredited all you would say; for if Mr. Dugdale (as you say) had importuned you that you would do this thing for him, how comes it to pass that afterwards you should promise him a reward of 1,000*l*. and bring a gentleman to make it good.

Price. I assure you, my lord, I never did.

Just. *Dolben*. It is most apparent, Tasborough does not deny that.

Price. But that which is the real truth, that you say must not be believed.

Just. *Pemberton*. Did he solicit you to draw your Note?

Price. Yes he did, upon the word of a christian.

Just. *Jones*. You did confess that you did study it, and draw it yourself.

Price. I did so, but he importuned me to do it.

Just. *Pemberton*. How do you prove that?

Price. I desire to know by what words I took off his evidence at Harcourt's Trial.

Just. *Dolben*. You desired him to be kind, because he was your confessor.

Price. I desire to ask him the question, by what words it was.

Just. *Jones*. Well, you may ask him, but it is little to the purpose. Can you remember the words, or the effect of the words that she spoke to you in the behalf of Harcourt? The night before his trial, I think it was.

Dugdale. Yes, it was the night before, to desire me I would not be an evidence against him, in regard he was her ghostly father.

Price. You know you came to me, Mr. Dugdale, and told me you rid post to town.

Just. *Pemberton*. We must have no more of these interlocutory discourses.

Dugdale. Mrs. Price, I would not do you the least injury in the world.

Serj. *Maynard*. Mr. Justice Jones, I desire a word.

Just. *Jones*. If you will produce any witnesses, do.—*Price*. I desire I may speak for myself.

Just. *Dolben*. It is but reason she should speak for herself.

Just. *Pemberton*. But I hope if she ask unreasonable questions she is not to be heard.

Price. I only speak the truth.

Just. *Dolben*. But we must not take your evidence of it, produce your witnesses.

Just. *Jones*. If you have any to prove what you say, call them.

Price. Whether you will take my evidence or not, pray let me speak for myself.

Just. *Dolben*. We cannot believe you, nor must the jury believe you, I will tell you that before-hand.

Just. *Pemberton*. We tell you, you must not be heard. If you have any questions to ask, let your counsel propose them.

Just. *Dolben*. If you apply to the jury, you are not to tell the matter of fact, but to prove it to them by witnesses.

Price. I desire, however, I may be heard myself.

Just. *Jones*. If any thing hath been omitted by your counsel, which is material for your defence, and you have witnesses to prove it, they shall be called.

Just. *Pemberton*. Mrs. Price, you must know the course of the court, and the way of evidence is, we are not to hear the persons indicted make long speeches to the court, or to the jury, or come with great confidence to deny the thing that is proved against them; if you have any thing material to say, we will hear you by your counsel; you must not trouble us.

Price. My Lord, I have matter enough to say, but it cannot be heard.

Mr. *Sanders*. We desire Wright may be called again.

Just. *Jones*. To what purpose?

Price. To prove that you, Mr. Dugdale, would suborn him.

Dugdale. Call him, if you will, if you can prove any practices upon me.

Price. You have good practices we know: you are a man of excellent practices; you had need commend your practices. You know very well, Mr. Dugdale, that you told me you were perjured.

Recorder. It is not language fit for you to give.

Serj. *Maynard*. Is that liberty of speech fit to be given? She tells Mr. Dugdale that he said himself he was perjured.

Justico *Pemberton*. You are an impudent woman to talk so.

Justice *Dolben*. Your mouth must be stopped, if you can use your tongue no better.

Justice *Jones*. What would you ask him when he does come?

Price. I have told my counsel.

Mr. *Sanders*. She says she would ask him whether Mr. Dugdale did not offer him money to suborn him in this case. You are sworn already, Sir, are you not?

Wright. Yes.

Mr. *Sanders*. Then pray answer the court this question, Did Mr. Dugdale at any time offer you any money to take an oath, or give evidence?

Wright. Offer me money?

Mr. *Sanders*. Yes, you. Answer upon your oath.

Wright. No, my lord.

Mr. *Sanders*. Or any thing else did he offer?

Wright. No, my lord. He hath often sent to me to come, and when I did come, hath said, I am glad you are come, I will do you as great a kindness; but he did not know of my coming, because his messengers had not met with me.

Mr. *Sanders*. Did any one on his behalf offer you any thing?

Wright. No, I think not; if it was, I think it was in vain.

Mr. *Sanders*. But did he, or did he not?

Wright. No.

Recorder. If Mrs. Price hath any more such witnesses, she may call them.

Serj. *Maynard*. Sir, under your favour, here

bath been a strange way of defence. Consider what a crime we are upon, and in what times we are. That there is a Plot of a very high and transcendant nature under question, that divers witnesses have been suborned, and persons tried in this place and convicted for it, it is undeniable. Now after trials for so high a crime in the most public way, here come Price and Tasborough; What to do? She indeed before, but both Tasborough and she afterwards, by rewards, and such temptations, endeavours to disgrace his evidence; but there is not only that, but the great thing looked after by their party, was, the issue of it; upon this all the king's evidence were to be hanged. What hath been said is only to make a jest, and make the company merry, that there was a contract of marriage between them; but what will be the consequence of that? He that spoke it, has unquestionably proved the probability of our charge, we have made it probable, and he hath proved it; and the inference drawn by them is, She certainly did not tempt him, because she had an interest in him, which concludes very naturally. But then for the other, Mr. Tasborough, alderman Barker comes in, and swears the gentleman is a very honest man; I hope he did hear the evidence, and then I wonder how he could swear it; but do we come to prove whether he be an honest man in his life? It is not at all our question; if we should have offered to have disparaged him in another way, we had not, I think, done our duty, and the court would justly have reprov'd us for it; but there is one thing, which if it had not been spoken, I would have held my peace: How is Tasborough concerned in the case? Divers have been questioned and executed for High-Treason, upon Mr. Dugdale's evidence; and after such an execution, what is Mr. Tasborough's duty? It hath been represented as if he had been persuaded by her, and drawn in that way, and he thinking that it was a falsity that had been sworn before, and that Mr. Dugdale repented of the injury he had done them, he should help to make this discovery. But what was he concerned? Did he go to a justice of peace, or any just way? Did he not contrive with the devil rather than the justice? 1,000*l.* must be paid to draw off a man, and corrupt him, to make him own himself perjured, in a truth that had been spoken. And this is not the first time that they have done it; for we remember the case of Reading very well. I shall say no more, but this, under favour, it is not well to say, That a man may persuade another to deny his testimony, that is nothing concerned in the case, in a case of this public nature especially, and for money too, that was never meant by the law, and I hope is not meant ever to be countenanced here. I hope the court will give that caution to all that hear it, as will discourage any attempts of this nature for the future. And that it shall not be enough to excuse it, for him to say he was persuaded, and thought his sorrow was real, and thereby to put the king's witnesses to prove that

thing to be true that they had proved already. What had Mr. Tasborough to do, as if he were a judge of the proceedings of the court and witnesses? Nothing at all, under favour, but is a very ill man, and as such I hope shall be punished.

Justice Jones. Gentlemen, you of the jury; these two persons have been indicted for a very great offence. The indictment sets forth (that which we all know to be true) that Whitebread, and divers others, have been tried and condemned for a very execrable, hellish, Popish-Plot: That upon these indictments, Mr. Dugdale did give material evidence; but that, when some other of the conspirators were to be tried, and brought to punishment, these two persons did endeavour to make Mr. Dugdale absent himself, and retract his evidence. And not only so, when Harcourt was to be brought to his trial, (for whom it seems Mrs. Price had a particular kindness) but likewise it was endeavoured, he should be gone, and not give any further evidence at all, and he should have 1,000*l.* for a reward. This is the indictment.

The inducement to the indictment (that is, the trials of the conspirators) is all well known: And there have been copies of the records produced, which have been inspected and perused by the counsel on the defendants parts; and they cannot say, but that the records agree with the matter in that respect: So that there is nothing at all but the bare matter of fact that you are to enquire into.

I shall distinguish the persons: Mrs. Price, according to the evidence, hath gone through the whole charge of the indictment, and indeed, hath committed some further crimes than have been mentioned in the indictment.

First, it hath been proved to you by Mr. Dugdale, That she did not only desire kindness to Harcourt, who was her ghostly Father; but she did design, as much as in her lay, that he should not come in at all to give evidence against him: This is proved by Mr. Dugdale, and another person that was by, that did hear Mrs. Price say, She would have him be kind to Mr. Harcourt, because he was her ghostly Father: withal tells you, That immediately after Dugdale did tell him, that she did persuade him he should absent himself, and not give evidence against Harcourt.

She is likewise charged (as they are both) that she did treat with Mr. Dugdale for to retract all that he had said, to be gone, and to leave a paper behind him, which should signify, That there was trouble of mind upon him, and that he had done wrong in his testimony given against the Catholics: Therefore he would be gone, and leave a testimony of it in writing, when he was gone. And she provides for his security abroad, and he should have 1,000*l.* reward.

Dugdale is the person with whom the first treaty was: But because he knew, and it was observed, that it was unsafe to deal with persons that was tampering with him in such a nature as this was, and upon a matter of this

kind, he does acquaint persons of very great quality, as he swears, my lord of Shaftsbury, and two other persons: They do advise him that he should get some persons to be by when they should come to some further treaties concerning this business; and to that purpose he should hold up a correspondence, and condescend to a kind of agreement and compliance, that he might be able to have further testimony to confirm his evidence. Whereupon Dr. Chamberlain and his servant are placed in a closet in Mr. Dugdale's chamber, in such a place, that they might hear what was discoursed in the chamber; in comes Mrs. Price, they being in the closet. Mr. Dugdale and she discoursed about the business so loud, that Dr. Chamberlain and his servant (as both of them tell you) heard their discourse upon it: The question was asked and put to Mrs. Price: Mrs. Price, I hope you know you are the person that first moved this intrigue; it began from you, and not from me: And this was confessed by her. So that you have in confirmation of Mr. Dugdale, the testimony both of Dr. Chamberlain, and of his servant to that part of the charge against her. And withal, it is added, not only that he was to go beyond sea, to retract what evidence he had given; but likewise it was thought expedient he should come over again, and swear against all the rest of the evidence that had been given or should be given for the king. And when it was said by Mr. Dugdale, What will it avail you, if I do retract my evidence. There is Mr. Oates and Mr. Praunce to testify the same thing: She said, No matter for that, if we get you on our side for the Catholic cause to be our friend, we shall be sure to baffle all they can say or do; and we shall not only save the Catholics, but turn the plot upon the heads of the Protestants, and all the king's witnesses shall be hanged. That you may remember was testified by some of the witnesses. Mrs. Price deals frequently with Mr. Dugdale to this purpose. Dugdale, that he might know (and it is very like with that honest intention, and no other, he did it) and that he might discover the bottom of this business, tells her, This is a thing of dangerous consequence, and it is fit that I have better security than your promise to this 1,000*l.* I will have some substantial person that shall come and confirm what you promise, and thereupon she tells him, he should have a substantial person brought, and he should have thanks from very great persons, naming the duke of York; for he it was, as they said, that would take care to protect him, and procure a pardon for him.

Now gentlemen, this is the evidence against Mrs. Price. In defence of this what doth she offer, but that she hath been acquainted with Mr. Dugdale, and there hath been great familiarity between them. If there had not been such a familiarity, would there have been such an intrigue? Is this a matter to be communicated to a stranger? If there were a doubt before, whether there were this contrivance, does not this give us a better assurance that it was

so, because there was such an acquaintance between them?

Then, as to Mr. Tasborough: He indeed is not in the beginning of the design at all: There is no evidence against him for that part of the charge, That he should absent himself, and not give evidence against Harcourt. He comes not in at that time; nor can I perceive by Mr. Dugdale, that he had any acquaintance with him at all till the 12th of October; and he says he was but twice in his company.

Now, gentlemen, what does Mr. Tasborough do? First, Dugdale is told by Mrs. Price, That a man of quality should come to him, and confirm all the promises she had made him. Tasborough does come to him, and tells him, he hath had some discourse with Mrs. Price, what she had proposed; and he is now come to make good and confirm, that all shall be effected that she had proposed to him. Ay! but it is supposed, that Mr. Tasborough is a very honest man, and a conscientious man, and does come for nothing in the world, but to persuade Mr. Dugdale to do the office of a christian; it was a charitable thing of him, to take off the scandal that was upon the innocent. But you do not hear him charge it upon Mr. Dugdale's conscience, that he had given a false evidence against any of those persons, nor urge him much to repent. But he must be gone, he must give no more evidence against the catholics: And, what if he do comply with this desire? Then he tells him he shall have a reward: What reward? 1,000*l.*; which was made known before, and protection, and pardon, and security: And he comes to him in the duke of York's name, to enforce it the more strongly upon him, and make him do it; whereas, indeed, the duke of York (as he himself and Mrs. Price have since confessed) never knew any thing at all of the business.

Now, gentlemen, to move by honest christian means, any one that hath done an injury of any sort to repentance, and contrition, and recantation, that is a very good thing; but to do it with promise of a reward of 1,000*l.* can't be justified: what way is there to insinuate into any person an intention of doing a mischief, but such a way as this? will any one come to another, and say, forswear yourself; whereas you know such a thing to be true, swear it to be false, or retract the evidence you have given about it, and I will give you a 1,000*l.*? No, but serve the Catholic cause; a great many have suffered, and by your testimony; retract, begone, be secure, you shall have a certainty, that you shall be secure in another kingdom; or else you shall have it in a Protestant family; though neither that protestant, nor any protestant was named.

Is not this a bait to tempt a man to all the villainy in the world? If 1,000*l.* be offered, who can resist? Such people as these are will not easily resist such a temptation.

But Mr. Tasborough is a very honest man in his life and conversation; he produceth those that tell you his reputation is good, and the like.

There is no doubt of it, and if he had produced 20 witnesses, do you think he would produce any one that should speak against himself? He chooses out those certainly as would speak as much in his favour as they can; but if a man hath been an honest man in his conversation, may he not be enticed or seduced? especially when it will be told him, If you do this, you shall merit heaven, you shall be sainted and canonized, you do the greatest service in the world to the Catholic cause.

These temptations may work upon a man, perhaps, that is morally honest, when he is infatuated with this principle, That any thing may be done for the Catholic cause; as it is a Catholic doctrine too often instilled into them, that any thing is become sanctified when it tends to that end; it is easy then to prevail upon them in things of this nature.

I should have told you (which I omitted before) one circumstance concerning matter of proof against Mrs. Price more than Tasborough: Two witnesses said they were in the closet, and heard a woman discourse, but neither of them did see her face; but afterwards it is proved by another, that he was desired to observe who came into or who went out of the house; and he swears he saw Mr. Dugdale and her come out of the house; that they went to the Gate-house, and he saw her come again from the Gate-house with Mr. Dugdale, and he is sure this is the person. And you remember that part of their discourse was of going to the Gate-house.

Justice Pemberton. They do not deny it neither.

Justice Jones. I don't see they do.

Justice Pemberton. It is a very strong and plain evidence as can be given.

Justice Jones. There is nothing can be said for Mrs. Price, little for Mr. Tasborough.

Justice Pemberton. I see nothing that can do him any good.

Justice Dolben. Come, gentlemen, lay your heads together and consider of the matter.

Which the Jury did at the bar: And being asked by the Clerk of Crown, whether they were agreed; they answered, Yes.

Cl. of Cr. Who shall say for you?

Omnes. Foreman.

Cl. of Cr. Do you find the defendants Guilty of the trespass and offence whereof they stand indicted, or Not Guilty?

Foreman. Guilty.

Mr. Pollexfen. As to part only for Mr. Tasborough?

Foreman. Guilty of the Indictment.

Justice Jones. We all know he is not found Guilty of one part, and that must be considered at the setting of the fine.

Att. Gen. Mr. Tasborough hath been upon bail, but I suppose must not go upon bail now; we pray that he may be committed.

Justice Pemberton. They must both be committed; take them both.

Mr. Sanders. Mrs. Price is still in the Gate-house.

Justice Pemberton. We have her here now, she is in our custody.

Mr. Sanders. If you please, Sir, we desire she may be remanded back.

Justice Pemberton. No, they shall go both into the Marshal's custody.

Price. I beg your lordships I may go back to the Gate-house.

Justice Pemberton. What! These are not things to be trifled with.

Justice Dolben. No, we must not shew you any favour at all.

Justice Pemberton. No, we must have no favour for you that would destroy us all.

Then the Prisoners were taken into custody by the Marshal, to be kept till their judgment. Afterwards John Tasborough was fined 100*l.* and Anne Price 200*l.*

261. The Trial of BENJAMIN HARRIS, Bookseller, at Guildhall, for causing to be printed, and sold, a Libel, entitled, "An Appeal from the Country to the City, for the Preservation of his Majesty's Person, Liberty, Property, and the Protestant Religion:"* 32 CHARLES II. A.D. 1680.

MR. Recorder (sir George Jefferies); I hope, this being a matter to be tried in the city of London, persons coming here in great multitudes, come to blush, rather than to give encouragement to it; and if we can give your lordship, and this jury, satisfaction that this person is guilty of the offence, according as it is laid in the information, I hope that both

you and all others that shall hear it, (for I perceive there is a great expectation this day from this cause) I hope, I say, you will abominate any man that shall offer at any such like thing. Indeed we live in an age where all sorts of faction and rebellion is countenanced, magistrates reviled, and scandalized by some persons, who think they have authority so to do. It is just like such another kind of religion, which some have now of late taken up, that rather than they will be thought to turn fanatics, they will turn plain atheists, and others, who scorn to be either, downright rebels. This

* See this "Appeal" in the Appendix to 4 Cobbett's Parl. Hist. N^o. IX. See, also, sir John Hawles's Remarks on Fitzharris's Trial, *infra*.

Book is as base a piece as ever was contrived in hell, either by papists, or the blackest rebel that ever was: it seems to carry with it a fine character, and has a figure of all plausible obedience to the crown, to wit, "An Appeal, &c. for the preservation of his majesty's person, liberty, property, and the Protestant religion." But if any of you have seen it, I hope you will be so far from giving any countenance to it; as that you will, with me, think, it is so far from tending well to the government, that it is only designed to rake up all sedition and rebellion, and the very worst of all rebellion. I must confess, I would rather have believed that it was only the sake of lucre made him do what he did, for that would have somewhat extenuated his crime, if he had not read it first; but then to go and have it printed, and exposed to sale, &c. this is a great aggravation.—If the same sort of insinuation had been used towards any private tradesman, as hath been offered to the king and magistrates, I believe there is no man but would say, that ere this time he might have hid his head.—But dissemblances of pretences for the sake of the Protestant religion now-a-days in his shop will pass well enough, and persons can tell you there how far you may go from hence to Rome with safety; and after they have blackened their mouths with tobacco and smoke, and do not rail against the church and the government, they are looked upon straight as no Protestants.—But still as to this person, the farther to urge it, by way of aggravation upon him, he could vauntingly make his boasts, when it was put home to him, why he would venture to do such things, &c.? That he had above a thousand persons who would stand by him in whatsoever he did.

L. C. J. (Sir William Scroggs) There was hardly ever any book more pernicious to set us together by the ears than this, nor any thing a greater incendiary; one can hardly write a worse.—Says he, "We in the country have done our parts in chusing, for the generality, good members to serve in parliament; but if (as our two last parliaments were) they must be dissolved, or prorogued, whenever they come to redress the grievances of the subject, we may be pitied, but not blamed. If the Plot takes effect, as in all probability it will) our parliaments are not then to be condemned, for that their not being suffered to sit occasioned it." So that here is a sly way of casting it upon the king himself. And if it be not downright treason, I am sure it is just upon the heels of it. It is a most abominable piece.

Then were called the Witnesses, to prove that the books were sold in his shop; and after they were all sworn, first of all Mrs. Grover, a printer's wife, stood up, who confessed she had half a dozen of them, but not of him; for he was either gone out, or not in the way, but she had them of his man.

Then stood up one Mary Darby, and she said, she had four of them.

After her, Mr. Benjamin Tooke, at the Ship in St. Paul's Church-yard, bookseller, was examined, who said he saw several quires of them in the shop. And being asked by Mr. Harris, How he knew they were all those books? He answered, that he turned over a great many of them, and found them all the same.

Recorder. My lord, he was so mighty zealous of this book, of so great importance, no doubt, to his party, that for fear he should be disappointed in time, he gave somewhat to hasten it.

Recorder. Call — the printer's man, and swear him. [Who stood up, and was sworn.]

Recorder. What did Mr. Harris give you, ha?

Printer's Man. He laid me down six-pence.

L. C. J. And what, that was for hastening the book, was it not?

Printer's Man. I cannot tell, Sir, not I, but he gave me six-pence.

Recorder. And what did you do it in the day-time, was you not at it in the night?

Printer's Man. Yes, I was upon it in the night.

Recorder. Ay, it was a deed of darkness, and so fit for night-work.

Serj. Stode. My lord, if it can be made out to your lordship and this jury, that he designed maliciously to scandalize the king and the government by it, we must acquiesce; but that, my lord, he absolutely denies; but seeing it running up and down the town, he gets some of them, and suffers them to lie up and down in his shop, and this only as a common thing to get money, so that we suppose it may not lie within the information, because it does not intentionally scandalize the king and the government.

Mr. Williams. He in his trade sold this book, and that we admit; but, my lord, it is a material part of the information, that it was done with a malicious design, &c. and we do not take it so; but for the other matter we submit to it.

L. C. J. Then you do admit, that he did sell some of these books.

Mr. Williams. We do, my lord, that he did sell one.

Mr. Ollibear. My lord, this book was publicly sold in other booksellers shops before we had it, and so we thought in a way of trade, we might do the like; but as soon as ever we heard there was any thing ill in the book, we suppressed the selling of it.

Serj. Stode. They say, my lord, the printer had six-pence given him by Mr. Harris. Friend, does not he come, and give you some money at other times? Have you never had any of him before?

Printer's Man. No, sir. I never printed any thing for him before.

Serj. Stode. Was not this printed before you saw it?

Printer. Not to my knowledge.

Serj. Stode. Pray ask the first witness. Was not this in print before you saw it in his shop?

Grover. Yes, my lord.

Mr. Williams. My lord, he is a man of other principles, than to do such things.

L. C. J. There is scarce any but Smith, that is so factious a seller of books as Harris: all your domestic intelligences are so; for which, you know, you have forfeited your recognizance almost in every book.

A Neighbour was called by Mr. Williams, to give an account of Mr. Harris.

Neighbour. My lord, I have known him about a twelve-month; and I have always looked upon him to be a fair-conditioned, quiet, peaceable man: he is, and has been so reputed among his neighbours. And I have never seen any thing from him, but what was very quiet and peaceable.

Recorder. A bookseller that causes a factious book to be printed, or reprinted, if it was printed before, is a factious fellow.

L. C. J. You say right.

Mr. Goodhall (another neighbour of Mr. Harris's) said, upon his being asked, if he were acquainted with him? And, if he were wont to oppose, or to scandalize the king or government? That he never heard such a like thing of him.

Recorder. I presume that none of these do stand by him in any such thing: but he, being advertised of it, and being asked, why he would offer to expose to sale such a book as this? He answered and said, that he had a thousand persons that would stand by him. Call Robert Stevens.

L. C. J. What can you say?

R. Stevens. My lord, I have seen this book several times in his shop, and others too. And I have asked him, why he would so publicly vend them? (I did not indeed buy one of them myself, but I caused a man to buy one for me) and he said, He had several thousands to stand by him: and he is accounted an anabaptist. He said so before the master and wardens of the company; who questioned him, why he sold such scandalous things? And he said he had several thousands to stand by him.

Then spake the *Lord Chief Justice* to this purpose:

Because my brother shall be satisfied with the opinion of all the judges of England, what this offence is, which they would insinuate, as if the mere selling of such a book was no offence: it is not long since, that all the judges met, by the king's command; as they did some time before too: and they both times declared unanimously, that all persons that do write, or print, or sell any pamphlet, that is either scandalous to public, or private persons; such books may be seized, and the person punished by law: that all books, which are scandalous to the government may be seized; and all persons so exposing them, may be punished. And further, that all writers of news, though not scandalous, seditious, nor reflective upon the government or the state; yet if they are writ-

VOL. VII.

ters (as there are few others) of false news, they are indictable and punishable upon that account.

So that your hopes of any thing of that kind will be vain; for all the judges have declared this offence, at the common-law, to be punishable in the seller, though in the way of his trade: the books may be seized, and the person punished.

As for this book, in particular; you can hardly read a more base, and pernicious book, to put us all into a flame: It gives you such incitements, and such base encouragements, with such reflections upon all sorts of persons, (for I have read it upon this account) that I think, there can scarce be a worse made. He would set up another man, that has no title to the crown: "For (says he) the greatest danger accruing to your persons, as well as to the whole kingdom, upon the king's untimely death, will proceed from a confusion, and want of some eminent and interested person, whom you may trust to lead you up against a French and popish army; For which purpose, no person is fitter than his grace the duke of Monmouth; as well for quality, courage, and conduct, as for that his life and fortune depends upon the same bottom with yours. He will stand by you; and therefore, you ought to stand by him. And remember the old rule is, he who hath the worst title, ever makes the best king; as being constrained by a gracious government, to supply what he wants in title: That instead of God and my right; his motto may be, God and my people." He says, "such a one would make a better king; for, as you see, the worse the title, the better the king." A king with a bad title, makes a better king, than he that hath a good one; for he shall be obliged to comply with, and will humour the people, for want of a title." A thing, which is the basest nature that can be: And yet this man must give money to hasten the printing of such a book; and he had several quires of them in his shop. Except the writer of it, there cannot be a worse man in the world; who, for trivial profit, will neglect the peace and quiet of his country, and set us all together by the ears for a groat. And, Mr. Harris, if you expect any thing in this world, of this kind of favour, you must find out the author; for he must be a rebellious, and villainous traitor: For, though he seems to inveigh against popery, it is only to be a rebel. And certainly, he has rejected all the laws of God, and all obedience that man requires; and profaned all holy-writ. He is somebody, whose fortune does not suits with his condition; and who, because he is not at ease and quiet himself, will let nobody else be so neither. [Speaking to the Jury, who presently withdrew.] You have nothing more to do, but to give your verdict: If there be any thing in law, let me know it because you go out.

Then one of the Jury asked my lord, if they might not have the book with them, which was there in the court, and it was answered in the negative.

3 O

Before the Jury went out, Mr. Harris would fain have spoke to them for himself, but it was not permitted him.

Then, after a little while tarrying, they returned to the bar. And being, as is usual, asked if they were agreed on their verdict, and who should speak for them; they answered, Yes; and appointed their foreman, who said he was Guilty of selling the book. At which there was a very great and clamorous shout.

Lord Chief Justice said, that was not their business, they were only to determine whether barely Guilty, or not Guilty.

The Recorder would have had them given their verdict by the poll, but they all unanimously cried out, they were all agreed, and then the foreman gave the verdict again, Guilty.

Mr. Recorder then prayed, he being for the king, that Mr. Harris might stand committed; Who was thereupon presently delivered to a tipstaff, to be carried to the King's-bench.

Mr. Harris earnestly beseeched his lordship that he might be sent to any other prison, and named Newgate three or four times, but it was not granted him: Thereupon he said, I hope God will give me patience to go through it.

Then my Lord Chief Justice spake to the Jury to this effect:

I am sorry you gave countenance to this cause so much, as to stir from the bar, when the evidence was so full, and when I told you plainly, not only my opinion, but likewise that of all

the judges of England, that selling this book was an offence at the common law, for which they ought to be punished; And yet with your scruples, you give the party (with their halloos, and shoutings) to take advantage; though you did mean upon the matter the same thing then, you do now, yet you see, upon every little occasion, when a thing shall seem to thwart the government, how ready they are to send up their loud hallooings. It was not so prudently done as might have been done. We had need look about us, for if at such a time, and for such a base book, such clamorous noises shall be made, what shall become of us? Our lives and fortunes are at stake. Would I knew some of those shouters, I would make them know, I would punish them: I am incensed in the behalf of the government, and of all our lives and fortunes that such shall go unpunished.

Harris afterwards received Sentence in the court of King's bench, to pay 500*l.* * Fine; stand on the pillory an hour; and find sureties for his good behaviour for three years; and had it not been for Mr. Justice Pemberton, the Chief Justice would have added, that he should be publicly whipt.

See the Proceedings against the Judges, *infra*.

* It appears by the Commons Journal of December 21, 1680, that the House ordered an Address for the remission of this fine to be presented to the king. See, too, the Journal of December 8, 1680.

262. The Trial of FRANCIS SMITH, Bookseller, at the Guildhall of London, for publishing a Libel: 32 CHARLES II. A.D. 1680.

THE Jury being sworn, Mr. Holt opened the Information.*

Mr. Holt. May it please your lordship, here is an information preferred in behalf of the

king against Francis Smith, bookseller; and it sets forth, That after sir George Wakeman, William Marshal, William Rumley, and James Gorker, were indicted and tried on the 18th of

* In former editions the following indictment is, by mistake, inserted as appertaining to this Case:

Rex versus Smith, for a Libel.

32 Car. 2, B. R.

“ss. Jurator pro Domino Rege super sacram suum præsentant, Quod Franciscus Smith, nuper de in librar', Deum præ oculis suis non habens, sed instigatione diabolica motus et seduct', et falso et maliciose machinans, et intendens serenissimum Dominum nostrum Carolum secundum, Dei gratia Angliæ, Scotiæ, Franciæ, et Hiberniæ Regem, fidei defensionem et regimen suum, in odium et infamiam inter subditos suos inducere et inferre, et seditionem inter subditos dict' Dom' Regis movere, 24 die Decembris, anno regni dict' Dom' Regis 32 apud in vi et armis, falso, seditiose, et maliciose scripsit et publicavit, et scribi, imprimi, et publicari causavit quendam fict', fals', sedit' et scandalos' libel', intitulat', ‘A Speech lately made by a noble Peer of the Realm.’ In quo quidem libello continent'

‘hæc falsa, ficta, et scandalosa verba sequentia: ‘My Lords, it is a very hard thing to say, that we cannot trust the king; and that we have been already deceived so often, that we see plainly the apprehensions of discontent in the people is no argument at court; and though our prince be in himself an excellent person, that the people have the greatest inclination imaginable to love, yet we must say, he is such an one, as no story affords us a parallel of. How plain, and how many are the proofs of the designs to murder him? How little is he apprehensive of it?’ Et in altera parte ejusdem libelli continent' hæc falsa, ficta, et scandalosa verba sequentia: ss. ‘My lords, I hear of a bargain in the House of Commons, and an address made to the king, but this I know, and must boldly say it, and plainly, That the nation is betrayed, if upon any terms we part with our money, till we are sure the king is ours. Have what laws you will, and what conditions you will, they will be of no use, but waste paper before Easter if the court have money to set up for

July, 1679, for divers high-treasons, at the sessions-house in the Old-Bailey, before sir James Edwards, then lord mayor of London, and the Lord Chief Justice Scroggs, and others; the defendant, Francis Smith, published a scandalous libel relating to the late trials, which was intitled, "Some Observations upon the late Trial," &c. the words are particularly set forth in the information; to which the defendant pleads Not Guilty; but if we prove it upon him, you of the jury are to find for the king; and if you find he is Not Guilty, you are to say so and no more, &c.

Then Mr. Recorder spake to this effect.

Mr. Recorder. (Sir George Jefferies). My lord, I am of counsel against the defendant for the king, who stands informed against for a very great offence. The information particularly sets forth, That whereas some certain persons were indicted at the sessions-house in the Old-Bailey, before the then lord mayor, sir James Edwards, and other persons then in commission of Oyer and Terminer, and gaol-delivery for that place, and particularly my lord chief justice Scroggs, and after the trial was over and the persons thereupon acquitted, there was a book, which is mentioned in the information, printed and published, and it is a book that is known by the name of Tom Ticklefoot; a very abusive thing; but persons now begin to grow wonderful witty in the beginning of their books, in hopes to ensnare people to read them, and to prevail upon them so far as to make them believe there is somewhat extraordinary by the title. You see, malice finds out all the ways in the world to ensnare and gain upon the people, to so bad an age are we come.

But I confess, it is the second time ever since I had the fortune or happiness to know this city of London, that I have known such expectations as have been upon two causes in this place: the first was but two days ago, the second is at this time; wherein is truly a sort of countenance, I am afraid, too much given by persons that dare pretend to be no other

“popery and arbitrary designs in the mean while. On the other hand, give me leave to tell you, my lords, the king hath no reason to distrust his people. No man can go home and say, that if the king comply with his people, they will do nothing for him, but tear all up from him. We want a government, and we want a prince that we may trust even with the spending of half our annual revenues for some time, for the preservation of these nations.’ In malum et perniciosissimum exemplum omnium alior’ in tali casu delinquen’, contra pacem dict’ Dom’ Regis, coronam, et dignitat’ suas. Unde idem Attornat’ petit advisament’ cur’ in præmissis, et debit’ legis processum.’

I have not been able to ascertain whose speech this professed to be.

* See these Observations, ante, p. 687.

sort of protestants, but can impudently outface all sort of governors. Now, as all persons ought to abhor and detest that damnable doctrine, That men hope to be saints in another world, because they may commit murders in this; so this ought too as much to be condemned by all protestants as the other, That men shall endeavour to rebel, and be factious in this world, that so they may be reckoned good subjects, the one are as far from being good saints as the others from being good subjects. I take this occasion to speak all this before your lordship and this court, because I hope the city of London will never be corrupted by the base insinuations of some idle busy bodies in it; men, who cannot, or will not be pleased, because, forsooth, every thing does not go according to their mind and fancy; and though by no means they will allow the pope to be infallible, yet every factious fellow will expect, that every one should pay him the tribute of infallible, as if he were the only fit person to give measures to government and governors.

When we come to have extraordinary cases and persons, extraordinary occasions ought to be taken to inflict due and just punishments upon them. And when they shall dare to come to disparage great men that act by supreme authority, men that act by their consciences; and because they cannot be steered by the humours of these sort of people, therefore they must be looked upon as papists, or at least as bribed because they cannot comply with that base humour which some sort of persons have.

I take notice of this to your lordship, because one that is intrusted in as great a place for the welfare of this nation, as any whosoever, is extremely concerned in the affair of this day; I mean, the Lord Chief Justice of the King’s Bench; who being assisted with several other judges, as far forth as it did appear to him, did deliver the sense of the whole court; who, for acting according to his conscience, and as he ought to do, hath been libelled and reproached with as base a book as ever was written against any magistrate whatsoever: if such things as this shall be permitted, then there will be an end of your lordship’s sitting here, or any where else, or of any other that shall act as a magistrate ought to act, and that shall not be afraid to do his duty. But such is the happiness of this city, in this Jury, that, I must confess, I receive so much the greater satisfaction that it comes before them; for as I know the men to be men of loyalty and affection to the government, and will be so just to him, that if they do not find him guilty of the matter of the information, they will acquit him: so, on the other side, they will not think themselves to be awed by a multitude, or enslaved by private insinuations, to debauch their consciences, either in respect to God above, or to the king his vicegerent here on earth; therefore observe your duty to both, that you may render to Cæsar the things that be Cæsar’s, as well as to God the things that are God’s.

Now as the king is God's vicegerent, so is every magistrate the king's vicegerent, in that particular.

I would not take up so much of your lordship's time, but that I see this is a matter of great expectation; and I know that every word is taken in short hand, to be commented upon as persons humours shall steer them. I do think, as being the Mouth of the City of London, it is my duty to speak thus much, that I hope, nay, I may dare confidently affirm, that the generality of the city of London, all good men, and men of abilities, &c. are for the king, and the government as it is now established by law. [At which there was a general hem through the court.]

Having said thus much against this person, Mr. Francis Smith, I must say, That if the way of common report were evidence enough to convict a man, he would be convicted without any more ado; but such is the happiness of our laws, that they expect testimony besides common fame. I would rather a great deal it might be a caution to Mr. Smith, if there had not been many before, and that he could not be convicted, and the evidence not plain in proof against him.

Well, he printed this book in the name of another person, one Mrs. Brewster: He sold several of them in quires to several people; and Brewster questioning wherefore he should put her name to this book: Truly, he said, he intended no harm to her, for he was resolved to save her harmless; and this we will prove to you; and likewise that several books have been taken in his shop; and he justifying himself in what he had done, and his further resolution to expose them still to sale. And if we shall prove this to you, there will be an end of all sort of justice, if in case that you, who are the only means of bringing men to justice, will not contribute to have justice executed where it ought to be: None can be legally punished, unless they be legally convicted; and I doubt not your honesty and loyalty, but that you will do your part by conviction, and by justice too. Against all libellers, I am sure, there is law enough, and every honest man will endeavour to have it put in execution against them, as far forth as it lies in his way: I hope the generality of those that are here, do come to shew an abhorrency against this person informed against, and not to give any countenance to such base actions.

Mr. Williams. (Counsel for the Defendant.) My lord, the libel is sufficiently infamous, we must needs own; and I do not come to justify the thing, neither Mr. Smith my client, nor any body else that should be guilty of it: The question is, Whether he be guilty of, &c. as it is laid in the information?

Recorder. Sir, do you admit the Record?

Just. Jones. If you do not admit it, you must call in your witnesses, and prove what you can.

Whereupon Robert Stevens, Anne Brewster, and Margaret Clark were called into Court, and stood up behind the Jury.

Mr. Williams. Sir, if you will give me leave, you shall hear what we will admit.

Recorder. Come, come, Sir, if you do not admit the Record, we will have none of your anticipations.

Mr. Williams. What call you your Speech but anticipation? My lord, the poor man, my client, is a languishing, sick and dying man, and one that is almost ruined; if any submission will serve the turn, he will give all the submission that is fit for a man to give: All that we say is this, that he did not order this to be printed, as it is laid in the information. But I think we may admit——

Mr. Fettiplace said (who was counsel on the same side,) he had no such order given him by his client, as to admit the record.

Then they were just going on to swear the witnesses, but Mr. Just. Jones said, It would be very well if they would admit, &c. and the Defendant come to submission.

Recorder. Ay, that is your best way; for it would be a great means to testify, that your submission is really intended as a submission: But if it be to prepare us to think that you are innocent, then we will not have your submission. And I am for a sinner's repentance with all my heart.

Just. Jones. If your client be willing to submit, let the king have a verdict in law, and then he will find my Lord Chief Justice Scroggs full of pity and compassion; and if I can see any signs of repentance, I will promise you to intercede to my lord for him.

Mr. Williams. One that came from my client told me, that if he had offended, he would submit to any thing: And now here is his wife come.

Just. Jones. I would save him if I can, if he will throw himself into mercy. Well, what do you say, mistress, for your husband?

Mrs. Smith. My lord, my husband is very sick and weak, and is not able to come himself, or else he would have done it; but I asked Mr. Williams if it were not best to submit to the Court.

Just. Jones. Are you content to own it shall be so?

Mrs. Smith. I leave it to the gentlemen, my counsel; I shall acquiesce in what they think fitting.

Mr. Williams. Then I presume to admit the Record.

Just. Jones. Then you are to find for the king: [Speaking to the Jury.] It is the cause of the king, although only my Lord Chief Justice be concerned. It is a high scandal; a great scandal against a great officer and magistrate of the king. I will say nothing more to aggravate the offence at this time, because I would invite repentance in all persons that have offended in this or the like cases.

Then the Jury being asked, Whether they were agreed on their verdict, said, Yes; and choosing their foreman to speak for them, he gave the verdict, Guilty.

Just. Jones. Well, mistress, you have done very well; if, now, you for your husband came here to make a public acknowledgment of his guiltiness, hereafter he shall go, and ingenuously make submission to my lord; I know he is a person of that pity and compassion, that he loves no man's ruin, but delights rather in the universal welfare of all people: And I promise this, that I will be an intercessor to my lord in your husband's behalf.

Recorder. And as far forth as I can contribute to it, I will do the same.

He afterwards submitted to a small Fine. See the Proceedings against the Judges, *infra*.

The following curious particulars of Smith's character and history, and of this and other proceedings against him, are taken from a pamphlet, entitled,

"An Account of the injurious Proceedings of Sir George Jeffreys, knt. late Recorder of London, against FRANCIS SMITH, Bookseller, with his arbitrary Carriage towards the Grand Jury, at Guildhall, Sept. 16, 1680; upon an Indictment then exhibited against the said Francis Smith, for publishing a pretended Libel, entitled 'An Act of Common Council for Retrenching the Expences of the Lord Mayor and Sheriffs of the City of London,' &c. Together with an Abstract of very many former Losses, and public Sufferings sustained by him both in his Person and Estate. Humbly submitted to the Consideration of all true Englishmen. London: Printed for Francis Smith, at the Elephant and Castle, in Cornhill, near the Royal Exchange."

To the Right Honourable, and my very good Lord, Anthony Ashley Cooper, Earl of Shaftsbury, &c.

"My Lord; As unthankfulness is deservedly reckoned both by Christians and Heathens a sin of the deepest die, so nothing gives a greater lustre to noble personages than those acts of grace and goodness which they extend to their inferiors needing their help and succour.—And I having in many cases experienced your lordship's kindness towards me and my family; I cannot, without incurring the guilt of the former, but make my thankful acknowledgements to your honour as any occasion offers itself; and therefore could not omit this duty at this time, when I am making public an abstract of my sufferings; in many of which I have been much helped through your lordship's goodness, as may appear in this short Narrative.—And my good lord, I am under also deep obligations to your honour, not only upon my private and single account, but as I am a poor Protestant member of this languishing nation; being, with all Englishmen that are truly such, deeply obliged to your lordship's wisdom, courage and sedulity, for all the public benefits

we enjoy or hope for, as is sufficiently manifest to all men, except those that are professed or secret enemies to their country, who have so industriously sought your lordship's destruction; whom God of his great mercy to yourself, and the whole Protestant people of England, preserve for a further blessing; so prays he, who is in the deepest sense of your manifold favours, my lord, your most thankful, and humble Servant,

"FRANCIS SMITH."

To my ever to be esteemed, and just friends, Mr. William Yearth, Mr. Richard Humphreys, Mr. Samuel Lamott, Mr. Elias Best, Mr. Henry Stephens, Mr. Thomas Stephenson, Mr. Thomas Fox, Mr. John Beare, Mr. Nicholas Godwin, Mr. Wm. Meakins, Mr. Isaac Jackson, Mr. Henry Rogers, Mr. Francis Sowersby, Mr. John Barker, Mr. John Lloyd, Mr. William Hussey, and Mr. Wm. Brown, late Grand Jurors for the great City of London.

"Worthy Citizens; When I call to mind the many grievous oppressions that have befallen me, by malicious informations, and unjust proceedings, whereof I present you here a short Narrative; and withal, how I have seen other men and their families, in a prosperous way of living, ruined, and brought to poverty, by either the inconsiderateness or cowardice of Jurors, who have hearkened more to the dictates of the Bench, than to the reason and nature of the case before them. I cannot but exceedingly admire the good providence of the Almighty towards me, in calling you to the office of Grand Inquest for the city of London, at that time when the Indictment, hereto annexed, was preferred against me; you, I say, whom neither subtile suggestions, wheedling speeches, nor loud and often-repeated reproaches and threats could work upon, to draw you aside from the true judgment of your own consciences. For no man can reasonably impute your verdict and constancy to any other cause: I am sure I had no previous acquaintance, or interest in any one of you, which might in the least bias your affections towards me. And the Indictment was drawn with so much slight and cunning, that if your wisdom and integrity had not prevented, in not finding the Bill, I could not but expect that any inferior jury would find me guilty, and I should have been delivered up to the fierce ambition of a male-content judge: so that I do, indeed, owe to you, next under God, the preservation of me and my family from bondage and misery: for which I and mine, shall be ever obliged to praise God; and so praying for all your prosperities, I heartily subscribe myself, your thankful Servant,

"FRANCIS SMITH."

The Case of FRANCIS SMITH, Bookseller, &c.

In August, 1680, a small book was published, entitled, "An Act of Common-Council," formerly made, and not since repealed, for re-

trenching the expences of the lord mayor, and sheriffs; with Ten Reasons, for putting the said Act in present execution; for which publication, I was bound over to the sessions of peace held at Guild-hall, London, on the eighth day of September following; where one of the said books, (with this annexed bill of indictment,) was presented to the grand jury, held for the city of London.

London, ss. Memorandum, that at a general quarter sessions of the peace, of our lord the king, held for the city of London, at the Guild-hall of the same city, and within the same city, on Wednesday, viz. the 8th day of September, in the 32d year of the reign of our lord Charles the second, by the grace of God of England, Scotland, France and Ireland, king, defender of the faith, &c. Before Robert Clayton, knt. lord mayor of the city of London, sir Thomas Allen, knt. and bart. sir George Waterman, knt. alderman of the city aforesaid; and others their associates, justices of our said lord the king, for the keeping of the peace of the city aforesaid; also for the perpetrating, hearing and determinating divers felonies, transgressions, and other trespasses within the said city done. A certain bill of indictment, against one Francis Smith, late of London, bookseller; then and there exhibited, to William Yearth, Richard Humphreys, Samuel Lamott, Elias Best, Henry Stephens, Thomas Stephenson, Thomas Fox, John Beare, Nicholas Godwin, William Meakings, Isaac Jackson, Henry Rogers, Francis Sowersby, John Barker; John Lloyd, William Hussey, and William Browne, Jurors, then and there appearing, impannelled and sworn, to enquire for our said lord the king, and the body of the city aforesaid; by which returned jury, was thus endorsed (*Ignoramus*,) which said bill followeth in these words, viz.

London, ss. The Jurors for our lord the king upon their oaths, present, that Francis Smith, late of London, bookseller, being a man seditious and pernicious, plotting and intending the peace and common tranquillity of this kingdom, to disturb, and discord, differences, and ill will, amongst the citizens, and inhabitants of the city of London, to stir up, provoke, and procure; also the mayor, aldermen and sheriffs of the city of London, now in being, and the mayor, aldermen, and sheriffs of the city of London, for the time past, in great odium, contempt, and base account to bring; the same Francis Smith the 17th day of August, in the reign of our sovereign lord, Charles the Second, by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, &c. the 32nd, at London, viz. in the parish of St. Michael Cornhill in the ward of Cornhill, London, aforesaid, with force and arms, &c. unlawfully, wickedly, maliciously, scandalously, and seditiously, printed, and caused to be printed, a certain malicious, scandalous, and seditious book, of and concerning the expences of the lord mayors aldermen and sheriffs of the city aforesaid, in their houses, in the time of their several offices;

intituled, "An act of Common-Council of the city of London, (made in the first and second years of the reign of Philip and Mary,) for retrenching of the expences of the Lord Mayor and sheriffs, &c. Published with additional reasons for putting the said act in present execution, and now offered to the consideration of all good citizens, by some well wishers of the present and future prosperity of the said city. Presented to my lord mayor, aldermen and sheriffs." In which book by the said Francis Smith, then so as aforesaid; he published, printed, and caused to be printed; the same Francis Smith, then and there, viz. the day and year before mentioned, at the parish and ward aforesaid, mischievously, unlawfully, wickedly, maliciously, scandalously and seditiously printed, made known openly, and published, mischievously, malicious, scandalous, and seditious sentences, in these English words following, viz.

"Reader; As by the act you may observe, that our predecessors taking notice, that the extravagancies of mayors and sheriffs, caused (as they say,) almost all good citizens to fly, and refuse the service; so to prevent that mischief in the future, they limited them in their living to the method directed by this act. And if when little was spent besides the growth of our own country, beer and ale being then their drink, they thought it their wisdom to set bounds to luxurious profuseness, there is much more reason for it now, when debauchery is come to that height, that the fifth part of the charge of a shrievalty is in wine, the growth of another country. And when feasts, hardly heard of in former times, are risen to that excess, as would be scandalous to mention, as those called the Chequer and Spittle feasts; the first costing in wine betwixt 70 and 80*l.* and the latter, after the pretended service of God in hearing a sermon, costs above 300*l.* to each sheriff. And though much after this rate is the rest of the year spent; yet when the example of this act is urged for laying aside these sinful feasts, and reducing the rest unto this pattern, which is a wholesome law; some, who should see to the putting it in execution, will not hear of it; and possibly, because they would have others be as profuse as themselves have been, though there are these reasons for reformation herein."

And these mischievous, malicious, and seditious sentences, in these English words following, viz.

"Because nothing can tend more to the advancement of any city or country, than the having wise and good magistrates; and that so long as the great expence of shrievalties continue, the city must, (as this act suggests,) have an eye to wealth, more than parts or virtue, in the choice of their sheriffs; and that such as their sheriffs are, such will the court of aldermen be: and therefore as necessary for the good government of this great city, the charge of shrievalties ought to be reduced to such an order and method, as may be an encouragement to men of more honesty than riches to serve the place."

And these mischievous, malicious, scandalous, and seditious sentences, in these English words following, viz.

“No man hath reason to be expensive in his shrievalty; because though the court of aldermen hath a rule for supplying, (as any die,) their vacant places out of those that have served sheriffs, yet they make their election to depend upon the uncertain humour of their court, thereby frustrating (when they please) all compensation for the expence and drudgery of a shrievalty, as late appeared in their choice of sir Simon Lewis, one of their present sheriffs, rejecting sir Thomas Stamp, who had served the place several years before with good approbation, and was presented to them by the ward he lives in as a deserving person. And whereas each ward, when they want an alderman, do present two commoners to the court, for them to chuse one; the ward of Bassishaw, to the end that sir Thomas might unavoidably be chosen, joined the younger, (and not the elder) sheriff with him, not thinking that an old sheriff would be hauled, to chuse one that had not served his year; and yet notwithstanding, the court by their prerogative passed by sir Thomas to the disappointing of the ward that sent him. And this example, is, (I suppose) a good reason for sheriffs in the future not to spend more in their shrievalties than is necessary, when their reward is so uncertain.”

And these mischievous, malicious, scandalous, and seditious sentences, in these English words following, viz.

“Debauchery in this expence is a sin before God, and were it known, would be a scandal in the sight of man; as appears, in that of 3,000*l.* expence in all manner of ways, above 500*l.* is in wine; when a lord, or gentleman that formerly lived at the rate of 10 or 12,000*l.* per annum, did not, as is well known (but thirty years ago) spend 100*l.* in wine.”

To the great scandal and contempt of our said lord the king, to the great reproach and scandal of the authority of the mayor, aldermen and sheriffs, of the city aforesaid; to the great disturbance of the peace of our said lord the king, to the evil example of others in the like case offending, and against the peace of the said lord the king, his crown and dignity, &c. (Ignoramus.) WAGSTAFFE.

The Grand Jury having taken this Sacred Oath, hereunto annexed, in these words:

“You shall diligently inquire, and true presentment make of all such things and matters, as shall be given you in charge, or shall come to your knowledge, concerning this present service; The king's council, your fellows, and your own, you shall well and truly keep secret; you shall present nothing for malice, or evil will that you bear to any person; neither shall you leave any thing unpresented, for favour nor affection, reward, or any hopes thereof; but in things that shall concern this present service, you shall present the truth, the whole truth, and nothing but the truth, ac-

cording to your best skill and knowledge, so help you God.”

The grand jury having taken this sacred oath judged themselves under a religious obligation, well to deliberate both upon the book and the indictment; and finding the book (to the best of their skill and knowledge,) of no other tendency, but to encourage such as were virtuous to take upon them the government of the city of London, with such good husbandry, and sober methods, as might neither dishonour God, by excess in feasting, nor yet ruin their own families.

And finding a bill of indictment brought against me at the same time, for publishing the said book; charging it with the odious names, of a malicious, scandalous, and seditious book, and myself as printer and publisher, with the like monstrous titles, of being a man pernicious, seditious, plotting and intending the peace and common tranquillity of this kingdom, to disturb, and with force and arms, unlawfully, wickedly, maliciously, and seditiously, to print and publish the said book.

Did all with one unanimous voice agree, that they could not in their conscience bring it in any otherwise than Ignoramus, and so threw it out.

This sessions of peace being that day adjourned, till the 16th day of the same month. The jury then had the bill brought them in again, with their Ignoramus scraped out, as the jury since have declared; upon which they examined the officer (who was witness to the bill,) whether he would swear that he believed in his conscience Mr. Smith did print and publish this book, maliciously, and seditiously, with an intent to disturb the peace of our lord the king in this city, to which the officer replied, ‘He durst not swear that for his life’; upon this they unanimously agreed to write Ignoramus again upon the bill, and so returned it.

Upon which sir George Jefferies, then recorder, was much enraged, and gave the jury many hard words, refusing to accept their verdict, and returned them again the third time, with the said bill. But they (in their conscience, seeing no reason to alter their verdict, returned the bill again, Ignoramus.

Upon which sir George Jefferies vilified and reproached the grand jury very shamefully in the open court; upbraiding them with calling the witness to repeat the evidence over again, and then commanded a clear bar, saying, God bless me from such jurymen, I will see the face of every one of them, and let others see them also; further adding, I will hear them repeat every man of them, their own sense of this bill, thus exposing them to all possible contempt.

The Bar being thus cleared, and the grand jury of substantial citizens thus exposed, as if they had been a pack of men, void of honesty and conscience.

Then the clerk of the peace according to sir George Jefferies command, calls every man by name, and asked them whether Francis Smith

was Guilty of the bill brought before them against him, or Not Guilty? upon which every man, one by one, being seventeen in number, returned Ignoramus.

Upon this sir George Jefferies in a most arbitrary manner, told the Jury they were upon their oaths, and had gone contrary, which was their sin of perjury, blasphemously saying, It was impossible for God from heaven to pardon their perjury.

But the jury persisted in their verdict, and gave no reflection.

Sir George being thus enraged, that he could not bend the jury from their just and honest verdict, calls out in the court for Mr. Smith, the person indicted, to come in; upon which immediately I appeared to know sir George his pleasure; who replies, Mr. Smith, you have the countenance of an ingenious person, here are two persons that this Jury have brought in Ignoramus, besides yourself, and yet they are so ingenious as to confess the indictment against them; and for their ingenuity they shall find the grace and favour of this court, and I cannot think to fine them little enough, they shall be fined but twopence a piece for their ingenuity in confessing.

Well, come Mr. Smith, follow their examples; you see what they have done before your face; and let me tell you, we know who hath owned both printing and publishing this book formerly; and therefore now, shew yourself as you seem to be, an ingenious person, and confess, and try the grace and favour of this court, and shame the jury that hath brought in a verdict contrary to plain evidence.

To this I replied; Sir, my ingenuity hath sufficiently experienced the reward of your severity already formerly; and besides, I know no law commands me to accuse myself, neither shall I; and the jury have done like true Englishmen, and worthy citizens; and blessed be God for such a just jury.

At my reply, sir George was greatly enraged, and although I had been three times quitted by the jury, yet he committed me again to the keepers of Newgate, saying, provide presently very good security, for I will assure you, I will have special security for you, and till then you shall stand committed: take him into custody: I was three hours thus detained in the custody of one or more of their keepers, and finding no remedy or relentings from him, was forced to give bail by two responsible citizens upon their oaths, as to their ability; and then bound us three in a great sum for my appearance at the next ensuing sessions of peace; and not content with that, he did hind me to my good behaviour also.

Meeting with such severity from sir George Jefferies, I thought it high time to be better prepared against the next sessions following; and therefore applied myself to the clerk of the peace, desiring a copy of the bill against me, that I might advise with some counsel learned upon it, (being now well satisfied sir George was resolved, if possible, to ruin me.) The

clerk replied it was very large and would cost me eight-pence per sheet; but if I would have it, it should be copied out in two days time; when accordingly I came, his answer was, that sir George Jefferies the recorder had forbidden him to let me have a copy, and he durst not without sir George's order; and therefore advised me to go to sir George himself, and tell him that I had come to the clerk for a copy, and he durst not grant it without his order; having been forbid by him, after the said clerk had promised me.

Then I repaired to sir George day after day, at least ten times; and several of those times two neighbours with me; understanding it was by law my right to demand it, paying their price. One day I waited from ten till two o'clock, before I could have any answer from him, and then his clerk brought me word, for he would not speak with me himself, that his master was indisposed, and would speak with nobody of business that day. The next day I requested a neighbour to go on my behalf, the sessions approaching, and I ignorant of the charge against me, to whom sir George returned answer by his clerk, it was none of his business, and I must take the course the law directed, for a copy. Then I went to counsel, and was informed that no subject ought to be denied a copy of his indictment, paying for it.

Upon this I took my next opportunity at the sessions held for Newgate in the Old Bailey, and there made my appeal to the Lord Chief Justice Scroggs, in the hearing of sir George Jefferies; complaining what hard measure I had received from him. Having waited above 20 times upon him and the clerk of the peace, in fruitless journies, for I could not obtain a copy of my indictment, having been thrice indicted, and as often acquitted.

The Judge told me in open Court, it was according to law, that I and every subject ought to have a copy of their indictment, though brought in *Ignoramus*; and the reason of the law was, that they might for wrong done them, seek their remedy. Sir George replied, 'His private house was not a court, and therefore he was not to meddle with ordering any such thing there,' (but here it is to be noted, his private house was a place fit to forbid me a copy, which is contrary to law, but not a fit place to do the right he is sworn to between king and subjects according to law;) having at last by the judge's order, obtained a copy no less than 17 sheets, charging me to be a man seditious and pernicious, plotting, and intending the peace and common tranquillity of this kingdom of England to disturb, and with force and arms, unlawfully, wickedly, maliciously, scandalously and seditiously, to print and publish the Act aforesaid.

And all my crime, if any, is but re-printing an "Act of Common Council for retrenching the Expences of Mayors and Sheriffs, with the Addition of Ten Reasons, why it should be put in present Execution;" For the encouragement of virtuous men, to take upon them the govern-

ment of the city of London, with such good husbandry and sober methods, as might neither dishonour God by excessive feasting, nor yet ruin their own families.

Which book, notwithstanding sir George Jefferies's opinion of it, hath met with a very general acceptance amongst sober citizens, of the best quality; and both himself and some others, could, if they please, witness the same; Yet divers such persons have wondered to them, and at them, for what they should be so much offended, or indeed why at all; much more so to harrass me with multiplied charges sessions after sessions, and with continued restraints, and bail upon bail; and above all, distracting my thoughts continually, and wasting my time from my shop and trade, to the impairing of my livelihood, through such frequent absence from my calling, to my damage, 20 times more than all the money I have been forced to expend.

And at last when (suitable to sir George's big words to me, and exacting such high bail for me, with his terrifying proceedings against the jury, to the amazement of the spectators, and gratifying his ambitious humours in contempt, and to the violation of our good English laws,) I expected to have been brought to trial by the next impannelled jury the last sessions.

Sir George let fall the proceedings, and ordered me to be acquitted by proclamation; and when I applied myself since to him for reparation; his answer is, He knew not of any wrong or injury he had done me.

And when since for high misdemeanours he was summoned before the honourable committee of Parliament; he did so much forget himself and the great duty of a Recorder, as to say in the hearing of the grand jury, and myself being there present, to that honourable committee, upon his own defence, That he had not so much as read the book.

What not read the book, and yet permit and appoint me, after a grand jury of credible citizens had acquitted me, to be indicted twice in one day, and after the same grand jury had so acquitted me three times, to treat them rather like French slaves, than free-born Englishmen.

And because I would not follow his dictates, against law and reason, and my own conscience, to give that worthy jury all the lie, by saying I was guilty, to commit me into the custody of the keeper of Newgate, where I was under restraint above three hours; and after that would not discharge me, till I had given great bail; nor then neither, without binding me to my good behaviour till the next following sessions; And all this upon an implicit faith.

For the book he confessed he had not read, nor knew the contents of.

From such a Judge, and such a Recorder of London, and such Judgment, good Lord deliver me, and may every true citizen and right Englishman, say Amen.

Now having given this candid account of my trouble and charge, by reason of this fierce

prosecution of me, for a matter wherein I was justified by my own conscience, many, if not all, ingenious men that considered it, and even by the grand jury of the great city of London, after so base and often repeated horrid treatments of them to the contrary; insomuch that if they had not been constant and resolute men, as well as honest, I had in all likelihood been ruined with my family.

I hope it may not be grievous to the reader, if I give some short account of many former sufferings, from men of like spirit with the Recorder, and the great damage which myself and family have incurred thereby; which I do the rather mention, because I have good grounds to believe my case is much mistaken by some, for want of true information.

[He then relates his sufferings under the imputation of being a disaffected person and a fanatic, in the year 1659, shortly after general Monk came to London; other sufferings in the next year, concerning a small book, called, "The Lord's Loud Call to England," and other small books; and farther sufferings upon false information that he was in Venner's rising: and after that he proceeds:]

In August, 1661, a certain book was printed and published, intitled, 'Mirabilis Annus,' or the year of Prodigies. Then did a person of quality yet living, give me great encouragement for its publication, as a book grateful to the authority, and of general caution to the nation, both to behold and consider the works of God, and also to tremble for fear of his judgments; but it so happened contrary to my expectation, that the very day it was published, one of his majesty's messengers came to my shop, with a warrant both to seize the book and my person, and carried me before the then Secretary of State, where after examination, I was committed to the Gatehouse prison by this warrant inserted.

It is his majesty's pleasure that you take into your custody the person of Francis Smith, Stationer, for having a hand in printing and compiling dangerous books, and that you keep him close prisoner till further order from his majesty, and for so doing, this shall be your warrant. Dated at the court at Whitehall this 15th day of August, 1661. EDW. NICHOLAS.

To the Keeper of the Gatehouse,
Westminster, or his Deputy.

This word in my warrant 'close prisoner,' proved a fatal word to me, as many still living can witness, for the keeper improved it to a tittle; there I was truly buried alive, it being a prison famous for oppression of poor prisoners, as many besides myself can notoriously witness.

For as soon as I was brought thither, a stern gaoler locked me up, and said, I must not see, nor have the liberty of any relations to visit me, without special order from the Secretary first obtained. This looked like cold entertainment to one unacquainted with such a condition. But this, and much more I found as

truly performed, as promised, being locked up in a room, where I had neither chair nor stool to rest on, and yet ten shillings per week must be the price, and before I had been there three nights, 7*l.* 15*s.* was demanded for present fees. That is to say, five pounds to excuse me from wearing irons, ten shillings for my entrance week lodging, five shillings sheets, five shillings garnish money, the rest for turnkey fees; upon which I gave this answer, that I did not understand any just cause for imprisonment, much less to pay such fees, and for wearing of irons I would not pay five groats to be excused, if he could by law impose irons on me, I would wear them. Upon this many cruel endeavours were used, whereby to exact consent of these fees from me; and my afflicted wife not suffered to speak with me but in the presence of the keeper, after chargeable orders, for so much privilege first obtained, nay many times orders denied for my friends admittance; in the presence of the keeper, and my window casements must be nailed up, that I should not have the benefit of that common air, which is every slave's birth-right. And when provision was sent for my necessary support, yet was that many times kept back and frequent fasts imposed upon me, and what was sent for my dinner at 12 o'clock, must be given me four or five hours after, which I usually breakfasted with, and should be sure to want beer or bread, so I was forced to devise a way by a bag and a string to be let down in the night at a window, to convey some necessary food to me. Things continued thus several weeks, in which time for receiving a note at the keyhole by an open prisoner, sent from my poor wife then sick and weary with grief, and successless travels at my release, I was taken out of this room, and locked up in a trap-door room, about 20 days, where I could hardly be heard with hallooing, it being a place for such as were condemned to die; to be usually secured in. At this time, above thirty pound was spent to attempt my release, but all ineffectual.

Then was application made to the judges of the King's Bench, Westminster, and I had three chargeable Habeas Corpus's before the cruel gaoler would obey to bring me to the bar, where upon my appearance, care was taken, that I carried in my hand the copy of my commitment, and presented it to the Lord Chief Justice Forster, who gave patient hearing to all my complaints, disdaining the usage I had met with, and told the keeper, if it should happen before my legal release I should die by such usage, the keeper should be indicted for his life.

At this time to my great amazement, a new copy of commitment was produced in court, the contents whereof here followeth:

The prison of the Gatehouse, Westminster.

I Edward Broughton, knight, keeper of the prison of our lord the king of the Gatehouse Westminster in the county of Middlesex to the lord the king humbly certifieth, that before the coming of the writ to me directed to this

schedale annexed, to wit, the fifteenth day of August in the year of the reign of our said lord the king that now is, &c. the 13th, Francis Smith in the said writ named, was taken at Westminster in the county of Middlesex, and there in the prison of our said lord the king of the Gatehouse aforesaid, under my custody detained by virtue of a certain warrant to me directed. The tenor whereof followeth in these words:

"These are to will and require you in his majesty's name, to take into your custody, and safely keep the body of Francis Smith of London, stationer, for that traitorously and seditiously he compiled, printed, and published a treasonable and seditious book, intitled *Several prodigies and apparitions seen in the heavens from August 1st 1660, to the latter end of May 1661, containing a collection of several former prodigies, mischievous events thereupon to princes and a forgery of divers late false and feigned prodigies and impostures of the same kind, prognosticating thereby the like events to his majesty, and thereby did traitorously and seditiously instill into the hearts of his majesty's good subjects, a superstitious belief thereof, and a dislike and hatred of his majesty's person and government, and prepared them to effect a damnable design for the destruction of his sacred majesty, and to introduce a change of the government established; and for so doing, this shall be your warrant; Given at our court at Whitehall the 15th day of August; 1661. Edward Nicholas, To the Keeper of the prison of the Gatehouse, Westminster or his Deputy. And this is the cause of the taking and detaining of the said Francis Smith in the prison of our lord the king, under my custody, whose body at the day and place in the said writ contained, I have ready as by the said writ is commanded me.*"

EDWARD BROUGHTON, kn^t.

My counsel pleaded they knew nothing of that copy till now, and gave evidence that the copy I produced was taken from the clerk of the prison, for which he had 5*s.* upon which I was remanded back again to prison, till the next term following; and here it may be remembered as an addition to the habit of cruelty attending that prison; (the gaoler notwithstanding what the Lord Chief Justice Forster had said to him) forced me to go down into the dungeon for above 20 days because I could not raise him 7*l.* towards chamber rent at that instant. Then upon renewed complaints and counsel charge, obtained order to be taken out of the dungeon, and put up stairs into a chamber where I was again turned out within a week, at 8 o'clock at night, while my poor wife and two of my children were eating, and they at that time of the night in the depth of winter, forced to seek their lodging amongst strangers in Tothill street Westminster, and myself constrained to lie upon the bare boards in an open entry, where I continued the rest of my time till bailed out, being several weeks, sometimes lying on the ground; the rest in a hammock.

In this time I was sent for to Whitehall, and in the presence of a gentleman of quality yet living, and several others, was offered 100*l.* and present discharge, but to declare my knowledge (upon an imprecation) of the authors or printers of the aforesaid book. Yet rather than occasion hurt to any, gave myself up to their utmost displeasure; and had recourse to many chargeable Habeas Corpus's before I could obtain bail. By this imprisonment I lost my shop, and trade for two years, to above 300*l.* charge and damage, towards which I can truly say to this day, I never had directly or indirectly to the value of 20*l.* reparation from any person or persons whatsoever; though it hath been often suggested both by persons in authority and others, that competitors bore me out, which occasioned my bonds to be aggravated.

Since that time I have had ten chargeable restraints in the king's messengers hands at a noble a day, one of which in the months of July and August I was so often and daily harrassed to and fro by Mr. L'Estrange's order between Whitehall and the messenger's-house where I was prisoner upon fruitless journeys, neither obtaining bail nor discharge for 10 days together, that brought me under such a fit of sickness with a fever as reduced me to be distracted to that degree that I was held in my bed by strength, the truth of which Mr. L'Estrange may very well remember, for he often both came and sent, I being in appearance never like to go abroad again, being so impaired that my taste, hearing, and memory are much weakened, to this day. The real charge and damage I sustained by this restraint and sickness, in my shop and trade 100*l.* will not repair.

The other nine restraints and tedious attendance upon his majesty's council, and secretaries, together with diet and lodging at messengers houses, with charges of council orders and messengers warrants and fees, cost me above 112*l.*

He then tells of his sufferings under the representation of being a disaffected person in the year 1665, and proceeds thus.

Immediately before that dreadful fire, that papists brought upon London, in 1666. One Mr. Lillycrop a printer, and another, both servants to Mr. L'Estrange as his assistants in surveying the press, came to my shop and warehouse near Temple bar with their general warrant to seize unlicensed books, and took off Mr. Allen's, Mr. Banyan's, and other, with a number of printed depositions against the papists, shewing their attempts and acts in the several fires, barely as unlicensed; through the prejudice, the licencers were pleased to take against the authors, constrained my printing them without licence, being books neither against church nor state; Nevertheless, they took as many as two porters could stand under, and carried them to Mr. L'Estrange's lodging, then at the king's wardrobe; Some of which with much difficulty and charge was obtained again; the rest it is supposed the fire took, to my real damage above 50*l.*

Upon that severe act against conventicles; in 1671, I had 140*l.* warrants against me, for being taken at several times at religious protestants meetings, upon which I lost my shop and trade above six months, being so eagerly pursued by one justice Sabbs and his informers, as forced me by night to remove my goods from place to place nine several times, to prevent seizure, which cost me and lost me above 150*l.*

Here be it remembered that from the meeting place where he took me, and others often, he also in an illegal manner brought workmen, and cart, and tore down, seized, and carried away a large gallery, with all the seats and forms in the said meeting, converting them to what use he pleased for himself, or his favourites; coming often also to enquire of the officers of the parish, where I dwelt, why there was not a seizure made; threatening them with a penalty in the act, as persons negligent, and when it was replied my door was still kept lockt that they could not obtain entrance; and they had been with the Lord Chief Justice Keiling for advice, who told them unless they could lay felony, murder or treason to my charge, the law would not bear them out to break open the doors while shut against them, upon the penalty of the conventicle act, upon which, the said justice Sabbs replied, Can you not get some unhappy boys to go in at his windows and open the door, and then you may make seizure of his goods; thus the conservator of the peace prompts the civil officers to break the peace contrary to his oath, to oppress for filthy lucre sake.

Some time after, two persons came to me, to procure the printing of a certain book, entitled, That neither temporalities, nor tythes, is due to the bishops, prelates nor clergy, by any gospel rule, and that kings, princes, and lords temporal may justly take the temporalities and tythes from them, and dispose of them for the defence and benefit of the kingdom, and the relief of the poor, proved by the laws and practices of twenty kings of England, Judah, and France, and also by 120 authors besides, dedicated to the king's most excellent majesty: One of them affirming he had great encouragements not fit here to mention; upon which I readily complied, but before it was finished, I was discovered, taken into custody, by Mr. L'Estrange with a general warrant and carried to Lambeth house, to appear before the then bishop, but without hearing was dismissed, and remanded to Whitehall, but never came to a hearing, yet harrassed to and fro, and kept undischarged for twenty weeks, sometimes in custody, and sometimes at liberty, to my real charge and damage at least 60*l.*

About a book called The Appeal from the cabal at Whitehall, to the parliament at Westminster; and the book called The Serious Queries against the conventicle act, proving it to be against the laws of God, of nature, and of Magna Charta; for which I was committed into the custody of five of the king's messengers

by the council board, to above 50*l.* charge and damage.

In December, 1673, one Mr. Ralph Carter, and Mr. Wickham, messengers, came to my shop near the Royal Exchange, with a warrant to fetch me to Whitehall, where immediately they promised me either discharge or dismissal upon bail to attend some urgent occasions then lay on me. But instead of bringing me to any hearing, conveyed me to a messenger's house, where I was detained three nights and three days; upon which perceiving their design to put me to charges, I contented myself without either bed, fire or food, excepting a couple of rolls privately obtained, and one pound of raisins of the sun, resolving that way to tire them out, either to accept my security for forth coming when authority pleased; or immediately be brought to hearing; at length I was constrained to threaten them, that if they kept me longer, I should call out at windows, and raise the streets upon them, for such illegal confinement; which at length after considerable contest for fees, I addressed myself to authority in this following petition.

To the right honourable the Earl of ARLINGTON, Principal Secretary of State: The Case and Complaint of FRANCIS SMITH.

Humbly sheweth; That on Tuesday the 2nd of this instant December, by virtue of a General Warrant from your honour, I was apprehended by Mr. Ralph Carter, messenger, and from that time detained as a close prisoner till Friday following in a messenger's house, denying me (notwithstanding my urgent and pressing occasions) to appear before your lordship in order to my examination, which was to my damage 40*l.* and upwards.

That Mr. Carter denied me a copy of the warrant, or liberty with a keeper to appear at my shop to seal two bonds, and deliver several goods for Barbadoes, to the probable hazard of ruining my trade as well as credit; although my necessity was at that time so urgent that I offered Mr. Carter 1,000*l.* bail for my appearance before your honour; but he refused it, and confidently affirmed it was your honour's particular order I should be so detained.

That after your honour's favour was obtained for my appearance at Whitehall on Friday, and his majesty's gracious favour to discharge me upon bail, (notwithstanding Mr. Carter's great incivilities to me) I gave him 20*s.* for his fee, who nevertheless on Monday the 8th of December instant, came after me into the city, where he demanded seven nobles more, the which he said he would have; and there in a very insolent manner (with many menacings, too tedious here to insert) affirmed I was his prisoner still, and that he would force me down to Whitehall in a coach, if I would not give him his aforesaid demands; saying, Let me see who dares take you out of my hands; And the better to obtain the same, (as I imagine) did falsly and maliciously pretend that I had spoken dangerous words against the king and government; sup-

posing thereby to affright me, that I might comply with such his illegal demands.

That upon these proceedings I repaired to counsel learned, who advised, That I might bind Mr. Carter to his good behaviour and indict him; but your honour's complainant was not inclined to any such proceedings, till I had spread my complaint before your honour: In order to which, I repaired to Whitehall on Tuesday following, and was there assaulted, and attempted to be seized by Mr. Carter in the open court again and again; but I refusing to go with, or submit to him, was pursued by him from thence almost to Pallmall, and there again was violently assaulted, forced, and dragged to a prison-house, tearing my coat and cloak, which caused a great tumult; whereupon the people demanded of Mr. Carter, by what authority he used me with that violence and cruelty? Thereupon Mr. Carter produced your honour's warrant, which his majesty had most graciously discharged me from the Friday before; and after all this, I was by him forced again to Whitehall, to appear before your honour; but Mr. Carter afterwards pretending that your lordship was not at Whitehall, he constrained me from thence to an ale-house, and there detained me at least two hours; the said Mr. Carter still threatening my continuance as his prisoner, on the pretences before alledged; so that I was constrained to call for the master of the house, and desire him to send for the Lord Chief Justice's warrant, to bring us both before his lordship; upon this, Mr. Carter set me at liberty.

The premises considered, your complainant humbly beseecheth your honour, That Mr. Carter may make reasonable reparation, or be left to a due course at law.

And your petitioner shall ever pray, &c.

In Jan. following I had the second impression printing of a book intituled, 'A Treatise of Baptism, wherein that of Believers and that of Infants, is examined by the scripture;' written by Henry Danvers, esq.; to which was both the author's and my own name and sign. This book having passed the first impression under some countenance of Dr. Parker, and the licensed catalogue of books published every term, nevertheless one Mr. Mearn, Mr. Vere, two messengers, beadle and porter to the company of Stationers, entered my house without a civil officer, and searched every room as well as my warehouse, for the said book; Mr. Mearn having but newly before, in his uncharitable diligence, seized near two thousand sheets of the said book, pretending great zeal for the service of the church of England; but the reader may judge by what follows the contrary too manifest; for in his assisting the surveying of the presses about four months before, and finding the same book printing, he passed it with a joke.

About February 10, he the said Mr. Mearn being then warden, did with warden White and the beadle, come to the house of one Mr. Redman, a book-binder, and seized 500 of the said

books, and carried them away; although the said Mr. Redman would have given security for their forth-coming until I was made acquainted, and authority should give a legal determination; but Mr. Mearn said he would have them into his own custody, and damask or spoil them, immediately upon hearing of which, I applied myself to the lord Arlington, then principal secretary of state, and to the late bishop of London, setting forth the usage I had met with, and requesting their lordships favour, That neither I nor my books might be condemned until a fair hearing, which was most readily granted. But before I could obtain a re-delivery of the said books, in April following I had sufficient intimation that this book (seized in pretended zeal to the service of the church) was re-printing for some of the same persons that had seized mine; upon which I repaired to one Mr. Downing's house, a printer in Bartholomew-close, where I found the sheet D. then printing; and in a short time after I learnt where a parcel of this stolen impression was binding: I then applied myself to Mr. Mearn, he being warden of the company, appealing to him of the injustice of this usage, viz. That he should be a chief actor against me, for printing a book (according to my belief The Mind of the holy scriptures for baptising believers.) And that now I both desired and expected he would seize and suppress this, being done by his favourites, if not with his connivance. He replied, he must first send for the barber and be trimmed, and that it was not a seasonable hour; although it was eight of the clock in the morning in the month of May. Thus finding my endeavours fruitless with him, and my own books still under restraint, my market lost, and and at least 40 or 50*l.* expended with continued absence from my shop and trade, in attendance and application to several persons of honour; from January till May, I was, as many know, constantly harrassed to and fro; being a part of that time at Windsor, where the court then was: On the 5th of which month, one Mr. Randal Taylor and Mr. Thomas Sawbridge, that had both been very instrumental in the seizing and suppressing of my books, exposes to public sale from shop to shop, that stolen impression of the said books, subscribing it in parcels to many booksellers, with the author's name, and my name and sign to it; which stupendous way of proceeding, and adding oppression to the oppressed, was designed, if possible, to have ruined me and my family.

Upon this unjust and monstrous dealing, I applied myself with one of their books and one of mine, to several persons of quality, and among the rest, to the right honourable the earl of Shaftsbury, then lord high chancellor of England, who was pleased highly to resent such hard measure: contributing his favour until it came to his majesty's ear, who was graciously pleased to grant his order for restitution of my books. And I wish Mr. Mearn would remember, in order to his timely repentance and making me restitution, how highly ill several noble lords resented his procedures, when I

complained in his hearing of his injurious practices at a committee of lords, where he appeared (the man of confidence) receiving such just reflections from the lords, the secretaries, the attorney and solicitor generals, as might have cautioned a man of modesty, though of no religion, never to have appeared any more in such unjust and malicious actions, as the sequel will discover.

Some little time after the present lord of London was invested, Mr. Mearn (as I have good ground to believe) did mis-inform his lordship touching me and my warehouse, (wanting till then an opportunity to improve the sore disgust he had taken at his majesty's gracious favour in restoring me those books Mr. Mearn had before seized, and declared if it cost him an hundred pounds out of his own purse, I should never have them again; not being capable to do me that injury in the late bishop's time, who told him what he did against me, was matter of malice apparently, for that such and such books, which the bishop then named, were by his connivance vended, and every way as unfit to be published as mine) thereby obtaining a council-warrant, suggesting I had a private warehouse wherein might be great numbers of the book called The Growth of Popery, and Advice to grand juries in order to the election of a new parliament; discovering the many grievances the nation groaned under by the mis-proceedings of the late long parliament: (now my warehouse, so suggested for private and dangerous, was in the open street at the Globe tavern near the Royal Exchange) nevertheless on a Saturday in July, 1678, while I was 16 miles off, came Mr. Mearn, with the then deputy-marshal of the King's-bench, and several others, to search my warehouse, (which but the week before, the same marshal, with Mr. L'Estrange and others, had searched, and found nothing criminal) and demanded of my son the key, or they would break open the door; but having ready entrance, found only the books which his majesty had graciously restored two or three years before, with several other innocent books; not one among them I dare appeal to his own conscience, reflecting upon church or state, more than barely that of baptism, respecting the time of administering: nevertheless, he sent for a cart and five porters, employing them to load the cart with above 200*l.* worth of several sorts of my books, and carried them to Stationers Hall; obtaining from the present lord of London, by false suggestions, an order for damasking or defacing them all: and so industrious was he! and Mr. Randal Taylor the beadle, (one of those that had some time before printed and published the stolen impression) that in two days from the seizure above 50*l.* worth was made good for nothing but to paste upon trunks or hat-cases.

Their seizure was made on a Saturday towards evening, and on Wednesday following, by the mediation of a person of honour that hath known me for 20 years, I made my appli-

eration to the present lord of London, that a stop might be put to the total spoil, till I had a fair hearing; and by his lordship's favour, with the message he sent to the then master and wardens, they spared no pains to put a stop to further spoil, and were contributory to all possible restitution of what had been seized, spoiled and unspoiled.

Nevertheless by the first seizure, before I could recover them again, which was about six months, attendance and charges cost me above 50*l.* besides the loss of my market, by their prodigious and wicked act of printing an impression of the same books, while mine were under restraint, to my damage above 100*l.*

The re-seizure of the same books three years after, and as many other sorts as together loaded a cart, at which five porters were employed by the said Mr. Mearn and competitors, with the spoil they made by damasking, and cost to recover, dammified me above 60*l.*

In the whole, the first and last charge and damage above 210*l.* upon moderate computation; besides many weekstime lost from my shop and trade, to my prejudice in probability equal to the rest.

In August 1679 there came forth a pamphlet called "*Observations on sir George Wakeman's trial,*" the author and printer of which I knew not; but it being commonly sold, I had a proportion (by some hand or other sent me.) In October following, one Mr. Stevens, a messenger to the press, brought a warrant from the lord chief justice Scroggs to bring me before his lordship, who was pleased to examine me as to the author; but I not being capable to answer his expectation in that, requested (for weighty considerations) I might not be committed, for it would much at that season tend to my prejudice, and I had sufficient citizens there present, who offered themselves for my bail. His lordship made answer, I do not except against your bail, they seem to be honest responsible gentlemen; but I tell you; you shall to gaol, unless you presently tell me who was the author of that seditious pamphlet. I replied, my lord, I cannot tell who was the author; but believe my case bailable, and beg your lordship to take bail. No, said his lordship, you may take your Habeas Corpus; I will take no bail; make his Mittimus: which was done accordingly, as followeth:

I have herewith sent you the body of Francis Smith, whom you are to keep in safe custody till he shall be discharged by due course of law; oath being made before me, that there was a great parcel of that scandalous libel seen in his house or shop, called *Observations on sir George Wakeman's trial.*

Dated Octob. 24, 1679. Wm. SCROGGS.
To Joseph Cooling, esq. marshal
of the King's-bench prison.

Upon this I had my Habeas Corpus, and in four days following was brought to the King's-bench bar, and so I was bailed; but an information was put into the Crown-office, whence

a summons came for a trial at a time when I was under an extreme sickness of a high fever and every-day-ague, being brought so low, that I was not able to go cross a room without help, of which the physicians certified; and the court was moved by counsel to put off the trial till it might please God to work my recovery; but not prevailing, the jury was impanelled, and the honourable sir Thomas Jones, who sat as judge, it seemeth advised my council that they would refer my case to the court, and he would mediate with the lord chief justice for clemency; which to a tittle his honour truly performed. At the same time, as I am credibly informed, sir George Jeffreys, who was counsel against me, made the like promise, and was waited on the day before my appearance at the King's-bench bar, with a request for his performance; but instead of making good what he had promised before many hundreds, he incensed the court with such aggravating expressions, as procured a fine; which with the Crown-office charge and imprisonment, with the charge of Habeas Corpus, and trial at Guildhall, cost me above 36*l.* besides a chargeable sickness several months, much more to my charge and damage.

In December following, the aforesaid Mr. Stevens and a constable came to my shop with a warrant to search for unlicensed books; I desired to hear it read, and found it was a general warrant signed by the lord chief justice Scroggs, not expressing my name nor crime; upon which I replied, I should not obey it, for it was against Magna Charta, and therefore advised the messenger at his peril neither to seize me nor my books. About this time, seeing two or three sober persons make a stand, I requested them to bear witness to what might happen; then the constable replied, Sir, My work is only to keep the peace, I shall meddle with nothing. Well but, sir, said I, I conceive it is your work as well to see the peace is not broke, for neither my name nor books are mentioned in this warrant, therefore it is against law. The messenger alledged, that besides his warrant, he had particular instructions to seize such and such things; and it would be worse for me, if I obeyed not: to which I replied, God's will be done, I will obey no general warrant; I have long and often known what it was to suffer, and now by God's grace I would know for what I suffered. Upon this the messenger was in a great heat, both threatening me, and persuading me much to obey his general warrant. I replied, Take heed what you do, and remember Empson and Dudley, that though they acted by an act of parliament, much greater than your general warrant, yet going against Magna Charta, they were both hanged for their pains. Upon this the messenger and constable departed.

A few days after, the same messenger came again with a particular warrant, and brought me before his majesty in council; and after he had made oath, gave evidence, and charged me with refusing to obey his general warrant, de-

claring, That I often threatened him with a parliament, and Magna Charta, on purpose to discourage him from doing his duty, and that he had more trouble with me than all the booksellers and printers in town besides; And it was in vain for him to execute his office, unless some course was taken with me; further adding, That I had printed queen Elizabeth's Association, (which he then produced) and two seditious petitions for the sitting of the parliament, for which he then produced a witness; further complaining, That I went up and down getting hands to petitions for sitting of the parliament, and that still as he came to search my shop for seditious books, I bid him have a care what he did, and bid him tell the 10 letters of a parliament upon his 10 fingers, and that, sooner or later, we must have a parliament, and then I must answer for what I did, on purpose to discourage me from doing my duty: with many aggravations too tedious here to relate. Upon the whole his general warrant was read, but nothing was said to it. Then my Lord Chancellor asked me, Where I had the Association? I replied, as I was a bookseller, That, as other books, came to my hands; and besides, it had been formerly printed in queen Elizabeth's days, and I hoped there was no hurt in reprinting it; His lordship replied, But the Queries in it was not then; and I must find the author, or be deemed author myself. Then his majesty was pleased to ask me, If I had printed petitions for the parliament to sit and promoted hands to them; To which I replied, Yes, and please your majesty, with all my heart, and thought I could not do your majesty and my country better service, than to endeavour a parliament at the time your majesty appointed, in January next. After some further passages to this purpose, we were bid to withdraw; and after a short stay a warrant was ordered for a messenger to carry me to Newgate, where I remained in custody, till delivered by Habeas Corpus, upon bail.

[Then computing the amount of his pecuniary loss on each of these occasions, he represents the aggregate as amounting to about 1,400*l.* besides the loss of his shop and trade for two years together.]

In compensation or support [he proceeds] towards this, or any other losses, I can truly say to this day, I never had directly or indirectly, to the value of 20*l.* reparation, from any person or persons whatsoever.

Though it hath been often suggested, both by persons in authority and others, that Competitors have born me out; upon which, occasion hath been taken to minister greater aggravation to my bonds.

And as a close of this my afflicted relation, be it remembered, that many of these my sufferings both on my person and substance, were by general warrants exercised on me; and without compassion, (by those employed in surveying, printing, and vending books,) upon many others; of which a doleful catalogue might be given, of several persons by (in the general) mere arbi-

trary ways, and particular or private piques, that have (from a flourishing condition,) been reduced to such poverty, as to die in gaols; others not able to leave at their death so much as to buy a poor 3*s.* coffin, to carry them to the grave; witness the truth of these cases, in one Mr. Brewster, who died low some years ago in Newgate, and his family reduced to such want, that his wife lately lived upon charity, and died under great extremity. One Mr. Calvert died little less than in prison, and his family brought to total beggary, that once lived plentifully; also one Mr. Dover a printer died in Newgate, almost to the ruin of his family, Mr. Lidwell Chapman in the like manner, by continued imprisonments, he and his family ruined; others fined above their ability, as late instance shews; others by like imprisonments, also were ruined, by persons invested with power of surveying the stationary trade, abusing the same at pleasure; and even wink, when, and where they please, as favour or pique governs them; seize as unlicensed, because others shall not sell them, and sell them themselves.

Even, by what they seize (to the ruin of perhaps families,) for waste paper one of another, as parties in iniquity, and sell the same for vendable commodity; yea some persons goods seized, because they shall not vend them; and others connived at to vend the same: I myself was kept a long time in the messengers hands, at horrid charges, a noble every day for fees, a mark a day seizure, a mark last day release; sometimes 52*s.* 6*d.* order before released, with diet and lodging at proportion; and another of the same trade, print and vend (with connivance) the same book.

I had, as many yet know, 500 books of a great value seized at the binders, forsooth the pretence not licenced, and mine being taken from me, and near 50*l.* spent after them, in order to recovery; some of the same persons that made a great noise in the ears of authority; saying they are against the church, against the church; (at this time with such usage for ought they knew, I had not money to buy bread for my many children.)

Yet the same persons could print, and sell, and connive at printing, and selling the same book, line for line; yea, and a conscience so tender or seared to put my name and sign to the same book, and sell them city and country over; as if their selling could alter or take away all the venom pretended to be in them.

It was become a frequent custom to seize from some, and connive at others, to print and vend the same.

And notorious it is that one Mr. B—— a printer was sworn against through a brick wall, as my information saith, and utterly ruined from all visible probability of ever recovering; his materials so broken and damaged; as disabled him from his common customary ability of getting bread for his family; and what was his crime? (a very great one, as most others before him here inserted) he printed, or was printing a Speech made in Common Council,

by a member thereof, for a petition to his majesty to dissolve that (by some worthy patriots of their own accounted; and felt one great grievance of the nation,) the late long parliament. And the author of the said Speech was many weeks kept in the Gate-house for his intended good service. Were all the ruins and spoils that have been made upon booksellers, printers, and merchants in books, and haberdashers, printed here; it would contain a volume; Till therefore a further opportunity calls for it; I shall omit much more that might be here inserted; humbly praying God Almighty to continue this honourable sessions of parliament, from whom it is not doubted, (when from more weighty affairs they can condescend into the inspection of such grievances,) but they will both punish offenders, and make such provision, as learned men of great worth, may not subject their labour to the pleasure of an imprimatur, or censure of striplings to them; nor yet booksellers and printers wait the justice

and favourable dispatch of a license, till their markets be over, as is notoriously known, and felt by too many witnesses.

Having thus given a short and true account of the sadness of my sufferings and damages, and also of the most that I have received in reparation, I hope I shall neither be looked upon as an unquiet and troublesome man, deserving those afflictions I have undergone; nor as one that by men of like unquiet spirits have at least my charges repaired; But that I may stand in the eyes of honest and unprejudiced persons, as a man who desires to preserve myself and family by my trade, as well as I may; (yet have met with hard dealings, great sufferings and losses, and these for the most part illegally and unjustly brought upon me, by the malice of ill men, which if I may obtain), I have the desired end of this Narrative, and subscribe myself a servant to all true Englishmen, while,

FRANCIS SMITH.

263. The Trial of JANE CURTIS, at Guildhall, for publishing the same Libel :* 32 CHARLES II. A. D. 1680.

Mr. Holt. MAY it please your lordship, and gentlemen of the jury, here is an information brought against Jane Curtis; and it sets forth, That the defendant did publish and put to sale a seditious libel against my Lord Chief Justice Scroggs: The defendant pleads Not Guilty; if we prove it upon her, you are to find for the king; and if not, you are to say so, and no more.

Mr. Williams said (who was a counsel for the defendant), he would admit the record: whereupon they proceeded no further to trial, but the woman being called, she said:

Mrs. Curtis. I was ignorant in the matter, and knew no such thing, my lord; my husband, an't please your lordship, was in the

* In an account which was published of this trial; this Jane Curtis is called wife of Langley Curtis, and the libel for the publication of which she was tried, is called, "A Satire upon Injustice, or Scroggs upon Scroggs."

country a hundred miles off of me, in Lincolnshire.

Justice Jones. You did it ignorantly and simply, without any malice, and, I suppose, you are heartily sorry for it. You see your neighbour there, Mrs. Smith, hath shewed good discretion in the behalf of her husband; she has ingenuously declared, that he shall come and make submission, and if I find you as submissive, and as sorry for what you have done, I may do the like for you.

Mrs. Curtis. In any thing that I have done, I know not myself Guilty; and if I am, I beg your lordship's pardon with all my heart, my lord, or any body's else.

Justice Jones. I know you will find mercy from my Lord Chief Justice, and therefore go and make your submission.

Then the jury proceeded to give their verdict, and their foreman said, Guilty.

See the Proceedings against the Judges, *infra*.

264. The Trial of Sir THOMAS GASCOIGNE, bart. at the King's Bench, for High Treason: 32 CHARLES II. A. D. 1680.

January the 24th, 1680, Sir Thomas Gascoigne was brought to the bar to be arraigned.

Cl. of Cr. SIR Tho. Gascoigne, hold up thy hand.

Sir T. Gasc. I cannot hear.

Clerk. He says he cannot hear.

L. C. J. (sir Wm. Scroggs). Then somebody must repeat it that stands by him.

Recorder (sir George Jefferies). Do you hear what I say to you?

Sir T. Gasc. No, I cannot hear, I am very deaf.

[Then the Clerk of the Crown went down close to the bar, and went on thus:]

Cl. of Cr. Sir Thomas Gascoigne, hold up thy hand. [Which he did.] Thou standest indicted by the name of sir Thomas Gascoigne, late of the parish of Elmet, in the West-riding in the county of York, bart. for that thou, as a false traitor against our most illustrious and excellent

prince king Charles the 2nd, thy natural lord, not having the fear of God in thy heart, nor weighing the duty of thy allegiance, but by the instigation of the devil moved and seduced, the cordial love, and true, due, and natural obedience which true and faithful subjects of our said lord the king should bear to him, and of right are bound to bear, wholly withdrawing, devising, and with all thy power intending to disturb the peace and common tranquillity of this realm, and to bring and put our said lord the king to death and final destruction; and the true worship of God in this kingdom, by law established and used, to alter unto the superstition of the Church of Rome, and to move and stir up war against our said lord the king in this realm, and to subvert the government of this kingdom; the 30th day of May, in the 31st year of our said lord the king's reign, at the parish of Barwick in Elmet in the said county of York, in the West-riding of the same county, with divers other false traitors unknown, didst traitorously compass, imagine,* and intend the

* See a Note in vol. 5, p. 972. To the quotation there inserted from Mr. Luders, the following passage should have been added:

"These words, at this day, do not convey the proper meaning of the original 'compasser ou imaginer.' But I have been afraid of offending those who would cry out against the change, in a form of words so long established, in this well-known article of national history, if I had given their true translation. I believe they would be justly rendered by the words 'attempt' or 'contrive.' Many passages contemporary with the statute, could be brought to shew that this was the meaning of the law-makers. The following have occurred to me, viz.

"In the Parliament Roll of the same 25th year (p. 287.) the Chief Justice in opening the Session, among the causes of summons, mentions the French king's assumption of the crown of France, which belonged to Edward the third. And that he 'ymaginant de notre dit Seigneur le Roy subdure et enginer,' had broken the truce.

"In Stat. 36 Edw. 3, st. 2. for the king's general pardon, the Commons petition that they may not be impeached or charged 'par nul manere de colour imagination ou interpretation—'

"In 2 Parl. Ro. 332. No. 58, in a petition for the banishment of the Italian brokers in 20 Edw. 3, the charge against them is, that 'male Usure et touz les subtils ymaginations d'icell sont par eux compassez et meyntenuz.'

"In 11 Rich. 2, 3 Parl. Ro. 239, 240. Judge Belknap is accused by the archbishop of York, 'quil feust ymaginour et contrevour' of the commission and statute made in the former parliament. And Blake, one of the same party ('qui avoient compassé et purposé leurs fauces tresons) ymagina sur les ditz commission et estatut— Et outre ce il ymagina et compassa—' with the aforesaid persons, &c. whose offences are called 'fauces tresons et

death and final destruction of our said lord the king; and to change and alter, and wholly to subvert the ancient government of this realm; and to depose and wholly to deprave the king of the crown and government of this kingdom, and to root out the true Protestant religion. And to fulfil and accomplish the same most wicked treasons, and traitorous imaginations

'compassements, d'avoir murdré et destruitz les ditz Seignurs.'—And inasmuch as the said offenders 'avoient conusance des ditz fauces purposes et compassementz de si haute treason,' &c.

"In 4 Hen. 5, 4 Parl. Ro. 104, the Commons represent, that certain religious houses that had run in debt upon bonds, which they could not discharge, 'compassantz et ymaginantz de desceivre et forbarrer' their creditors, had applied for protections, &c.

"In the acts for attainting the earl of Lincoln and his party in Henry the 7th's reign, which are in English, the following are the phrases, viz. conspired and ymagined—ymagined and conspired—ymagynying compassyng and conspiryng the deth and deposition—traitorously ymagynying and compassyng the deth and destruction. See 6 Parl. Ro. 397, 502.

"Chaucer, who was contemporary with the statute, applies the phrase to felony, not to treason. But in his time there was little difference between them for our purpose: Each crime depending on a breach of the feudal alliance; the one implying treachery, the other not. The passage I allude to is in the Knight's Tale, in the description of paintings in the Temple of Mars:

"There saw I all the dark imagining
Of Felony, and all the compassing.

The Treason of the murd'ring in the bed.
The open war &c."

Dryden altered this treason to the 'assassinating Wife.' Here treason seems contrasted with open war.

"Du Cange and Carpentier do not assist us, upon the inquiry into the origin of the word 'imaginer,' in our writers and records. What has occurred in my reading, would lead me to derive it from 'machinari,' not from 'imaginatio.' Glanville and Bracton and M. Paris use that verb, where those who came after them, writing in French, use 'ymaginer.' The old writ of Ne exeat regnum has, Machinatus est contra coronam. Ordericus Vitalis, writing at the end of the 11th century, has this expression, 'Dum plurimi Anglorum—machinarentur rebellionem.' Knighton, who was probably contemporary with Edward the third, writes 'qui ymaginati sunt ei prodicionem.' Joinville, Bracton's contemporary, has the following passage in French, of a rebellion in France, 'Adviint que les Barons de France se assemblerent a Corbeil, et machinerent entre eux d'ung commun consentement.' See his Considerations, &c. p. 137,

and purposes, the said Gascoigne and other false traitors unknown, on the said 30th day of May, in the 31st year aforesaid, with force and arms, &c. at the parish of Barwick aforesaid, advisedly, devilishly, maliciously and traitorously did assemble, unite, and gather together themselves, and then and there did devilishly, advisedly, maliciously, craftily and traitorously consult and agree to bring our said lord the king to death and final destruction, and to depose and deprive him of his own crown and government, and to introduce and establish the religion of the Romish Church in this realm. And the sooner to fulfil and accomplish the same most wicked treasons and traitorous imaginations and purposes, thou the said Gascoigne, and other unknown traitors, then and there advisedly, maliciously and traitorously did further consult and agree to contribute, pay, and expend divers large sums of money to divers of the king's subjects and other persons unknown, to procure those persons unknown traitorously to kill our said lord the king, and to introduce the Romish religion into this realm. And that thou the said Gascoigne afterwards, to wit, on the said 30th day of May, in the 31st year aforesaid, at the parish aforesaid, didst falsely, advisedly, craftily, maliciously and traitorously solicit one Robert Bolron to kill our said lord the king; and then and there, with an intent sooner traitorously to encourage the said Bolron to undertake the killing and murdering of our said lord the king, offeredst therefore to give and pay the said Bolron 1,000*l.* of lawful money of England; against the duty of thy allegiance, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided. How sayest thou, sir Tho. Gascoigne, art thou Guilty of this high treason whereof thou standest indicted, and hast been now arraigned, or Not Guilty?

Sir T. Gasc. 'Gloria Patri, Filio, et Spiritui Sancto,' I am Not Guilty.

Cl. of Cr. Not Guilty, you must say.

Sir T. Gasc. Not Guilty; nor any of my family were ever guilty of any such thing: I hope I shall be tried fairly.

Cl. of Cr. How will you be tried?

Sir T. Gasc. By God and my country.

Cl. of Cr. God send thee a good deliverance.

Sir T. Gasc. I desire, that in order to my trial, I may have a jury of gentlemen, of persons of my own quality, and of my own country, that may be able to know something how I have lived hitherto; for I am above fourscore and five years old.

L. C. J. Tell him he shall have a good jury of gentlemen of his own country.

Sir T. Gasc. And besides, my lord, I desire to know when I shall be tried.

Att. Gen. (Sir Creswel Levinz.) Some time about the latter end of the term, as soon as I can get a jury up.

Sir T. Gasc. I do not know whether I can produce all my witnesses at that time, if there be not a longer time allowed me; for I have a

great many witnesses to fetch up: these witnesses must be all here, or I cannot make my defence; and I know not how they shall be got hither in so little time.

L. C. J. Tell him he may have what witnesses he pleases, and the aid of this court to fetch them.

Just. Dolben. Name them who they are.

Mrs. Ravenscroft. My lord, some of his witnesses are at Paris.

Just. Dolben. Why, he will not be tried yet this fortnight.

Mrs. Ravenscroft. They will not have time to come over between this and that.

Just. Dolben. Mistress, he had reason to believe that he should be tried some time this term, for so the counsel ordered it; and therefore he should have got his witnesses ready.

Mrs. Ravenscroft. My lord, he did not know where they were till a week ago.

Just. Dolben. Look you, Mr. Attorney, here is a lady that is I suppose, some relation to this gentleman.

Mrs. Ravenscroft. He is my grandfather, my lord.

Just. Dolben. She says a fortnight's time will be too little to get his witnesses together for his defence, because some of the witnesses are beyond sea at Paris, she says.

Att. Gen. My lord, I am willing he should have as long time as the term will allow of: but sure that is long enough to get any witnesses from Paris.

L. C. J. What say you to sir Miles Stapleton? I see he is joined in the indictment.

Att. Gen. My lord, he is not come up yet.

L. C. J. Will you try the one without the other?

Att. Gen. Yes, my lord, if we cannot have both: he is in the hands of the messenger at York; we have writ down to know the state of his health to some of the justices of the peace, and the messenger returns word he is sick and cannot come: I have sent down an Habeas-Corpus to the messenger to bring him up; let him return a Languidus at his peril; that is all I can do.

L. C. J. Well, what day do you appoint for Sir Thomas's trial?

Att. Gen. Tuesday come fortnight I think will be a good day.

Just. Dolben. By that time, mistress, you may get your witnesses; you must send a messenger on purpose.

Mrs. Ravenscroft. But if the wind should be contrary, my lord, and they cannot be brought over?

Just. Dolben. It is not an usual thing to have winds long contrary between Dover and Calais.

Mrs. Ravenscroft. But if it do fall out that he wants a material witness at his trial, I hope his life will be considered.

Just. Dolben. He should have had them ready, he had warning before.

Mrs. Ravenscroft. We could do it no sooner because we knew not where they were.

Just. *Dolben*. He saith he hath a great many witnesses; are they all at Paris?

Att. Gen. There are a great many in town, we know, already.

Mrs. Ravenscroft. If we had known when exactly, we might have been more ready perhaps.

Att. Gen. But we could give no notice sooner, it is early in the term now. But there is time enough to get any witnesses.

L. C. J. Ay, you may send to Paris a great many times between this and that.

Mrs. Ravenscroft. What if the letter miscarry, my lord?

Just. *Dolben*. Why, you must send a special messenger.

Att. Gen. My lord, if you please, let it be Wednesday fortnight, the last day but one of the term; because I would give him as much time to provide himself as I can.

Just. *Pemberton*. Well, mistress, you must send a special messenger; we must not consult your conveniency; do it as well as you can, you have time enough.

Just. *Dolben*. Your grandfather is a man of an estate; he may very well, in this case, be at the charge of a special messenger.

Mrs. Ravenscroft. But what if the winds be contrary, must my grandfather's life be lost?

L. C. J. We must give you that favour we can by law, and you must be content; tell us at the trial what you have done.

Then the Lieutenant of the Tower was ordered to take the prisoner back and by the rule to bring him to the bar on Wednesday the 11th of February. On which day the prisoner being brought up, the Trial proceeded thus:

Att. Gen. My lord, here is an extraordinary matter: sir Thomas Gascoigne had a rule for some friend to assist him, by reason of the defect of his hearing; and now there are three of them that are got among the jury.

L. C. J. No, no, they must come in of the inside of the bar.

Att. Gen. Pray let him tell which he will make choice of; for he is by the rule to have but one.

Just. *Pemberton*. Tell him there can but one stay.

Counsel. He says one of them came out of the country, and knows the persons that are the witnesses, which he does not himself.

L. C. J. Well, let the other come in, let him have them both.

Counsel. He says, the principal man he depended upon is clapt up.

L. C. J. Well, we cannot help that.

Then way was made for the Jury to come up to the stand, and proclamation for information was made in usual manner.

Cl. of Court. Sir Thomas Gascoigne, hold up thy hand.

Sir *T. Gasc.* I cannot hear what is said.

Cl. of Cr. Those good men which were lately called, and have appeared, are to pass, &c.

L. C. J. Tell him the effect of it. If he will make any challenges to the Jury, he must speak to them before they are sworn.

Hobart. If you will challenge any of the jury, you must speak to them before they are sworn.

Sir *T. Gasc.* I cannot hear who is called.

L. C. J. Tell him who is called.

Cl. of Cr. Sir Thomas Hodson.

Hobart. This is sir Thomas Hodson, sir.

Sir *T. Gasc.* What must I say? Ay, or No?

Hobart. Do you except against him?

Sir *T. Gasc.* No. [Who was sworn.

Cl. of Cr. Richard Beaumont, esq.

Hobart. Do you challenge him, Sir?

Sir *T. Gasc.* No.

Att. Gen. Pray, my lord, here is sir John Cutler in the pannel, one that lives in town, and is the foreman of the jury; I desire the Court to take notice of his not appearing in particular.

Cl. of Cr. John Gibson, esq.—The Prisoner challenged him.

Serj. *Maynard*. I perceive they skip a great many; pray call them as they are in the pannel, and record their non-appearance in Court.

Which was done accordingly; but their names that did not appear, for brevity sake, are omitted.

Cl. of Cr. Nicholas Maleverer, esq.

Att. Gen. We challenge him for the king, I perceive the best gentlemen stay at home.

Serj. *Maynard*. Yes, it is so small a business.

Cl. of Cr.—Beckwith, esq., challenged by the prisoner; Stephen Wilks, esq., sworn; Matthew Prince, esq., challenged by the prisoner; Thomas Gravar, esq., challenged by the prisoner; Jervas Rockley, esq., sworn; William Walker, esq., challenged by the prisoner; John Dimmocke, esq., challenged by the prisoner; Samuel Jenkinson, esq., challenged by the prisoner; Robert Leeke, esq., sworn; William Batt, esq., sworn; Richard Burton, esq., challenged by the prisoner; Robert Auby, esq., challenged by the prisoner; Charles Best, esq., sworn; Robert Long, esq., challenged by the prisoner; John Crosse, esq., sworn; Barton Allett, esq., sworn; William Milner, esq., sworn; John Oxley, esq., sworn; Francis Oxley, esq., sworn.

Cl. of Cr. Crier, count these. Sir Thomas Hodson, Richard Beaumont, Stephen Wilks, Jervas Rockley, Robert Leeke, William Batt, Charles Best, John Crosse, Barton Allett, William Milner, John Oxley, Francis Oxley.

Cry. Twelve good men and true, stand together and hear your evidence.

Cl. of Cr. Sir Thomas Gascoigne, hold up thy hand. Gentlemen, you of the Jury that are sworn, look upon the prisoner and hearken to his charge. You shall understand, That he stands indicted by the name of sir Thomas Gascoigne, late of the parish of Elmet, &c. prout in the Indictment, *mutatis mutandis*. Upon this Indictment he hath been arraigned, and thereunto pleaded Not Guilty; and for his

trial hath put himself upon his country, which country you are, &c.

Then Proclamation for Evidence was made, and ——— Dormer, esq. of counsel for the king in this cause, opened the Indictment thus :

Mr. Dormer. May it please your lordship, and you gentlemen of the jury, sir Thomas Gascoigne, baronet, the prisoner at the bar, stands indicted for High-Treason, in conspiring the murder of his majesty, the subverting of the government, and the introducing the Romish religion: And for the effecting these purposes, the Indictment sets forth, That the said sir Thomas Gascoigne, sir Miles Stapleton, and other false traitors, on the 30th of May last, at the parish of Elmet, in the west-riding of the county of York, did assemble together, and there resolved to put their treasons in execution. And the better to accomplish their said treasons and traitorous imaginations, they did agree to contribute several large sums of money to several of his majesty's subjects unknown, to introduce popery, to kill the king, and subvert the government: And that sir Thomas Gascoigne did solicit Robert Bolron to kill the king, and for that service he was to pay him 1,000*l.* To this he hath pleaded Not Guilty: If the king's evidence prove the charge of the Indictment, your duty is to find him Guilty.

Serj. Maynard. May it please your lordship and you gentlemen of the jury, you have heard the indictment, and it hath been opened to you. There can be no greater crime charged upon any, than that this gentleman is accused of. The design hath been to kill and murder the king, to change the religion and the government; and to effect this, they make assemblies, they offer money; and this my lord we shall prove. It is no new crime, divers have suffered for the like already; and we shall not need to make any aggravations, for indeed it cannot be aggravated more than the plain matter itself is. We shall call our witnesses, and prove it directly upon him, even by two witnesses; and we shall prove, that he held intelligence with one Preswicke a priest; letters between him and that person are found in his custody, and we shall produce one of them wherein it doth appear, that there was intelligence between them, and consultations had about the oath of allegiance; and that Pracid did write to him, that it was a damnable oath condemned by the Scorbonnists: And upon that point hangs the changing of religion; for the oath of allegiance is the great touchstone to discover men's sincerity by, and the great bond to tie them to the government, and to the protestant religion. And we shall likewise prove another passage in a letter indorsed with the prisoner's own hand, wherein there is an expression to this purpose: "That if England be converted, (the priest writes this to him) then how a sum of 90*l.* was to be disposed:" Which was, as you shall hear, and we shall prove, in a nunnery. "If England be converted," that clearly shews, what was their inten-

tion, not only to destroy the king, but the religion and the nation; and so they were conspiring not only against his majesty, but against God. That an old gentleman that hath lived so long under the peace of this nation, and been so protected by the government, which hath been so indulgent to men of his persuasion, should be guilty of such a design, is a lamentable thing to think of; that he should so offend the law, which hath been so mild in its execution against such men. We shall prove the proffer of the 1,000*l.* and so leave it with you.

Att. Gen. My lord, these two papers we shall use in confirmation of that evidence will be given by two witnesses, who I think will concur in the same thing; that is, the conspiracy for killing the king, and for the carrying on of the plot. The papers the witnesses will expound to you; the one is a letter, as Mr. Serjeant has opened it to you, to sir Thomas Gascoigne from a priest, wherein he does discourse about 90*l.* a year at Maunston, which sir Thomas has purchased to settle upon a nunnery called Dolebank in Yorkshire; and therein it is said, "You will be well advised to put in a proviso into the former writing" (he meant for the settlement) "That if England be converted, the 90*l.* a year shall be bestowed at Heworth, or some other place in Yorkshire." Your lordship will hear by the witnesses, that there were several places designed for these nuns to inhabit, as Dolebank and other places; and this letter will concur with their evidence, and they will prove, that this very place that they speak of, was designed for this purpose; and so it appears by the papers taken in sir T. Gascoigne's custody. My lord, there is another letter which was mentioned, and which I believe may have a great influence in this cause, I am sure it may be likely to produce very bad effects; which is that letter from the priest, wherein he decries the oath of the allegiance as a damnable thing condemned by the doctors at Sorbonne, and other priests from Rome. And this had its effect a little time before; for it was about the time that a matter of 30 or 40 were convicted of a præmunire in that county, for not taking the oath of allegiance, which they used to do before. And there will be some other concurring evidence in this cause, and is by some papers taken in sir T. Gascoigne's own hand; they are almanacks, in which many of his own memorials are, several sums of money mentioned to be paid, and returned to priests at London: The witnesses will tell you it was returned for the design of the Plot. There happens to be 900*l.* returned to Mr. Corker, who is now in Newgate; and some other sums to Harcourt, who is executed; and some money is paid to him, though I think not much, about 25*l.* and several sums are mentioned and great sums returned to London by sir T. Gascoigne, in five or six years time, 5 or 6,000*l.* to what purpose I can't tell; they will give you an account: I think he did live always in Yorkshire himself, never used to come to town; and what occasion he might

have of returning money, I don't know. We will call the two witnesses *viva voce*, and then use the other evidence as we shall have occasion to confirm them. Call Mr. Bolron* and Mr. Mowbray. [Who were sworn.]

* This Bolron, in 1680, published, under an Order of the House of Commons, a pamphlet, entitled, "The Papists' Bloody Oath of Secrecy and Litany of Intercession for England: With the Manner of taking the oath, upon their entering into any Grand Conspiracy against the Protestants. As it was taken in the Chapel belonging to Barnbow-Hall, the residence of sir Thomas Gascoigne, from William Rush-ton, a Popish Priest."

The Oath of Secrecy he gives as follows :

"THE OATH OF SECRECY.

"Given by William Rushton, to me Robert Bolron, Feb. 2, 1676-7.

"In the name of the Father, and of the Son, and of the Holy Ghost. Amen.

"I, Robert Bolron, being in the presence of Almighty God, the blessed Mary ever Virgin, the blessed Michael the Archangel, the blessed St. John Baptist, the holy Apostles, St. Peter and St. Paul, and all the Saints in heaven, and to you my Ghostly Father ; do declare, and in my heart believe, the Pope, Christ's vicar-general, to be the true and only head of Christ's church here on earth ; and that by virtue of the keys of binding and loosing, given his Holiness by our Saviour Christ, he hath power to depose all heretical kings and princes, and cause them to be killed. Therefore, to the utmost of my power I will defend this doctrine and his Holiness's rights, against all usurpers whatever ; especially against the now pretended king of England, in regard that he hath broke his vows with his Holiness's agents beyond seas, and not performed his promises, in bringing into England the Holy Roman Catholic Religion. I do renounce and disown any allegiance as due to the said pretended king of England, or obedience to any of his inferior officers and magistrates ; but do believe the Protestant doctrine to be heretical and damnable, and that all are damned which do not forsake the same ; and to the best of my power, will help his Holiness's agents here in England, to extirpate and root out the said Protestant doctrine, and to destroy the said pretended king of England, and all such of his subjects as will not adhere to the holy see of Rome, and the religion there professed. I further do promise and declare, That I will keep secret and private, and not divulge, directly nor indirectly, by word, writing, or circumstance, whatever shall be proposed, given in charge or discovered to me by you my Ghostly Father, or any other engaged in the promoting of this pious and holy design ; and that I will be active, and not desist from the carrying of it on. And that no hopes of rewards, threats or punishments, shall make me discover the rest concerned in so pious a work ;

Att. Gen. Mr. Bolron, tell my lord and the jury what you know of sir T. Gascoigne.

Mr. Bolron. I came to live with sir T. Gascoigne in 1674, as Steward of his coal-works ; and in 1675, a little before Easter, being in the

and, if discovered, shall never confess any accessories, with myself concerned in this design. All which I do swear by the blessed Trinity, and by the blessed Sacrament (which I now purpose to receive) to perform, and on my part, to keep inviolable : And do call all the angels and saints in heaven, to witness my real intention to keep this Oath. In testimony whereof, I do receive this most holy and blessed Sacrament of the Eucharist."

He afterwards says :

"Now having given an account of the Oath of Secrecy, next I will render you an account how the Jesuits and Popish priests do insinuate themselves into the hearts of those that they ensnare to engage in this damnable design ; which particularly being exemplified in my own self, may serve as instructions how others were induced and encouraged to propagate their hellish principles. The relation is as followeth.

"About the latter end of January, 1676, Thomas Thwing a priest, and William Rushton, another Popish priest, who was my ghostly father, came to my house at Shippon Hall in Yorkshire, and did there examine me, how I was affected and did like the Romish religion, since I was of it, and, if there were any occasion, what would I do for the good of that religion ? To whom I replied, that I was so well affected to the Romish religion, that I would venture my life and estate in the management of any design whatsoever, for the good of that religion. The priests then said, that they were glad to hear me in so good a humour, and did heartily wish that all the Catholics in England were of my mind ; and further did tell me, that all England in a little time would be Roman Catholics ; for that the duke of York, next heir to the crown, had renounced the Protestant religion : Therefore force was to be used, for the more speedy bringing him to the crown. But added, that, before I could be any further acquainted with the particulars of this design, I must first take the aforementioned Oath of Secrecy, which all good Catholics must take ; for if any Catholics did refuse it, they could not be permitted to know of their designs and contrivances : For that sir Thomas Gascoigne, Thomas Gascoigne, esq. and other gentlemen, had taken the same, and engaged themselves, and given security for their respective performances.

"Then I told the said priests, That I would not deny to take it ; for I would obey my ghostly father in all things. And Candlemas-day, 1676, I did accordingly go to Barnbow Hall, as was formerly agreed, where I did hear mass, and take the Oath of Secrecy from the hands of my ghostly father, to be private and keep secret the design of killing his sacred ma-

next room to sir T. Gascoigne, I did hear Charles Ingleby and sir Thomas in discourse together, and sir Thomas did say he was very fearful his estate would be liable to be forfeited to the king——

jesty, and the destruction of all such Protestants as would not be of the Romish religion; which Oath of Secrecy is before related, and is the true copy of the said Oath as I got it from the said Rushton accidentally, the very same day it was ministered unto me by him.

“ Before I did take the Oath of Secrecy, I did go to confession, where my ghostly father in my said confession did tell me, that I must believe, That it was a mortal sin to reveal what was told me by my ghostly father in my confession, and that I was certainly damned, if ever I did discover the concerns of this design, or taking the said Oath of Secrecy.

“ But after I had taken the said Oath of Secrecy, and was acquainted with the design, whenever I went to confession, my ghostly father would be sure to examine me; how I had kept my oath; upon which, if my father confessor did judge, that I had not so truly kept the same, as I ought to have done, then must I have taken the same Oath over again. Besides, my ghostly father did frequently teach me how to make use of equivocations and mental reservations.

“ First, how to defend myself against the Protestants, if I were asked by a stranger, whether Mr. Rushton were a priest? that then I might lawfully deny it, or upon oath before a magistrate, I might positively deny my knowledge of Rushton to be a Popish priest: but then I must privately to myself make use of this equivocation, That I did not see the said Rushton take his orders beyond sea; therefore could not swear him to be a priest. And then followed the benefit of absolution, for this or any other service done for the good of the Romish religion.

“ And indeed my penance in confession was once enjoined me by Father Rushton to lash myself with a cat-of-nine-tails, because I did not deny with asseverations, to one Mr. Burman, that he was no Popish priest; although I did not confess the same to Mr. Burman, yet he alledged, that I did it but faintly, and therefore that should be my penance.

“ Secondly, if reproached by the Protestants; That they of the Romish religion made no conscience to destroy those that were of contrary opinion to them; that then with imprecations I might lawfully deny the same; only making use of this reservation to myself, that I must deny any thing which is against the interest of the church.

“ Thirdly, that since the discovery of this Popish Plot, if I did at any time hear the Protestants discourse, that they of the Romish church did teach the murdering of kings and princes, and that the king was to have been murdered by the Papists, that then I must vindicate the Romish religion, arguing, that such

L. C. J. In 1675 was this?

Bolton. Yes, my lord.

L. C. J. What time in 1675?

Bolton. A little before Easter.

L. C. J. Were you in the room?

doctrine the Papists held not, with reservation to myself, that I must not own such a design, unless effected, believing that Protestants, being heretics, had no power to examine me, neither was I obliged to answer directly to the question.

“ The ceremonies, manner and form used in the taking of the said Oath of Secrecy, is thus:

“ At the chapel door, did sprinkle myself with holy water, and then went into the chapel, where, bowing towards the altar, I made the sign of the cross, and said, Sprinkle me with hyssop, and I shall be cleansed; wash me, and I shall be whiter than snow; Then kneeling, I made the sign of the cross, and said, In the name of the Father, and of the Son, and of the Holy Ghost, Amen. After that, I said certain prayers used before confession; and at the conclusion, made again the sign of the cross; which being ended I went into the vestry, where, kneeling, I asked my ghostly father's blessing, as children usually do their parents. Then after that, I made again the sign of the cross, and then had the benefit of confession, and absolution from my sins, and then I went into the chapel, and said prayers before receiving the Sacrament.

“ But when mass was said, I did not communicate with the rest there present, although the Sacrament was consecrated for me; but, after the rest were gone, then William Rushton my ghostly father, called me to the altar, where bowing my body and kneeling, I made the sign of the cross; then I kissed the mass-book, and laid my right hand upon it, and so had the Oath of Secrecy given me by my ghostly father Rushton, repeating it after him. But at these words, In testimony whereof I do receive this most holy and blessed Sacrament of the Eucharist; Rushton put the Sacrament into my mouth, and said this little Latin prayer following:

“ ‘ Corpus Domini nostri Jesu Christi custodi animam tuam in vitam æternam.’ Amen.

“ Then again I kissed the mass-book held in the priest's hand, but held my hand on the mass-book all the time I was taking the Oath aforesaid; and after that, rising, bowed my body to the altar in an humble manner, and so returned to my place again.

“ Now after I had taken the said Oath of Secrecy, Rushton went again into the vestry, to say his prayers on his breviary; but I continued still in the chapel to say my prayers used after the taking of the Sacrament. Then, after, Rushton my confessor came forth out of the vestry, he went towards his own chamber, whither I followed him; but sir Thomas Gascoigne hastily calling the said Rushton, he laid down his breviary in his closet, to which was no door, and is situate near his chamber; which

Bolron. I was in the next room, and the door was not shut: and sir Thomas did say—

Att. Gen. Tell the discourse what it was.

Bolron. He said he was resolved to make a collusive conveyance of his estate, for fear it

said breviary I taking up, found therein the said Oath of Secrecy; of which Oath I had a sufficient time to take a true copy, and it is the real copy which is before recited; although when I took the copy of the said Oath, I never intended that any Protestant should have seen it.

“The same day were hallowed for myself two pistols, which were to be made use of, for the destruction of the Protestant party, if the Roman Catholic religion had prevailed in England.

“There were also swords, guns and pistols hallowed for Thomas Gascoigne, esq. and others engaged in the Popish Plot. And in the said month of February, I had an indulgence or pardon for 30,000 years, given me by the said Rushton my ghostly father, for my encouragement in my proceedings of being so zealous against his majesty and government; and the penance enjoined me was, to say every day a litany for the intercession and conversion of England; but if I did twice a day say the said Litany, then should I each day redeem a soul out of purgatory, but I have heard my ghostly father say, that some Catholics had their indulgencies for 50,000 years, others a plenary indulgence to encourage them to be firmer to this design. Such a plenary indulgence I did see in the hands of Mr. Mowbray, about the latter end of January, 1676-7.”

Then he gives the Litany of Intercession, and concludes thus:

“About the latter end of October, or the beginning of November, 1678, my occasions called me to Leeds Market, within four miles of my habitation, and a market that I frequently used: after my particular business was done, my curiosity led me to go, as usually I did, to a coffee-house; where amongst other news and reports, I heard that one sir Edmundbury Godfrey, a justice of peace at London, was missing, and that it was suspected and feared, that he was murdered or made away by the Papists.

“At my return home, I repaired to sir Thomas Gascoigne’s house at Barmbow, one quarter of a mile from my house, and there meeting his son Thomas Gascoigne, esq. I acquainted him with the news I heard at Leeds.

“Who thereupon took a letter out of his pocket directed to himself, which he shewed me; which letter was subscribed, ‘I. Corker,’ wherein he acquainted the esquire in words to this effect: That sir Edmundbury Godfrey had been a very busy man, and a great enemy to the Catholics; therefore they had procured him to be destroyed.

“And some few days after we had the same thing confirmed in print, viz. That he was murdered. Upon which my ghostly father William

should be forfeited to the king. And Charles Ingleby said, it was best so to do, and then he told sir Thomas he would have the defeazance made ready, which he would draw with his own hands; but he bid him be sure to bring none

Rushton, sent for me, to come to mass at sir Thomas Gascoigne’s house; and at confession, did charge me to give out, That I heard, that sir Edmundbury Godfrey was a melancholy gentleman, and in a discontent went into the fields, and there murdered himself with his own sword.

“Which accordingly I did, as occasion offered, in all companies I happened into; but was contradicted by many; and by some, that it could not be, for that his neck was broke, which he could not do after he had murdered himself; nor be capable to do it, if his neck was broke before: And being thus run down in my assertions, I acquainted my said ghostly father William Rushton therewith, who told me he had received new instructions, which he shewed me in writing, and were to this effect:

“That sir Edmundbury Godfrey was a gentleman who had often attempted to destroy himself; that he did really hang himself in his own silk-girdle, in his chamber at the bed’s feet: which being discovered, two of his servants acquainted his brothers therewith; who, coming thither, contrived his taking down, and the carrying him to the place where he was found; where they run his corps through, on purpose to throw it on the Papists, thereby to save the estate to themselves, and from being forfeited to the king: And that the two servants had 50*l.* a-piece given them to keep it private. He also said that one of them, which was a maid-servant, did offer to discover this contrivance to his majesty and council, but that she was by them rejected: Nevertheless, for all this, at the same time Rushton did own to me, that he was murdered by the Papists, but by what hands he knew not; and further, he seemed much concerned that it was done; wishing it had never been done, because it would make the murder of the king the more difficult to be performed.

“ROBERT BOLRON.”

“An Abstract of the Accusation of ROBERT BOLRON and LAWRENCE MAYBURY, Servants, against their late Master, Sir THOMAS GASCOIGNE, kt. and bart. of Barmbow in Yorkshire, for High Treason: with his Trial and Acquittal, Feb. 11, 1680; ‘Fit error novissimus pejor priore?’ Printed for C. R. 1680.

Robert Bolron, of New-Castle-upon-Tyne, was bound apprentice to Mr. Deale, a jeweller in Pye-corner, London. He abandoned his master in a twelvemonth, and listed himself a foot-soldier in Tinmouth-castle. He was with others thence put on board the Rainbow frigate, in the second war against the Dutch. He got ashore, and came in his yellow coat to sir

but Protestant witnesses along with him to testify. And in 1675, I did go along with sir T. Gascoigne to sir William Ingleby's of Ripley, and there I did see him receive colourably 1,000*l*.

L. C. J. How do you know it was colourably?

Mr. Bolron. I did hear sir Thomas tell Charles Ingleby so.

Thomas Gascoigne's house, having acquaintance with Richard Pepper, one of his servants, and thence he went to Newcastle.

He sometime after much importuned the said Pepper to recommend him to sir Thomas's service, upon pretence of his having been used to look after coal mines near Newcastle; and by his means he was admitted to over-look a small colliery of sir Thomas's.

Lawrence Maybury, (being the son of a day-labouring forge-smith about Leeds and now of late a bum-bailiff) through the means of Francis Johnson (one of sir Thomas's tenants and neighbours) was preferred to be sir Thomas's foot-boy. The same Maybury being laid in a chamber, where was a secret place, in which the lady Tempest (sir Thomas's own daughter, upon her going to London about Midsummer 1675,) put a small little trunk, and in it some twenty pieces of gold, her wedding ring, and several little stone rings, medals, and other things, to the value of about sixty pounds, and he who was known to all the servants not to be worth a groat, and having but a small salary, being afterwards discovered to have gold, silver, a large wedding-ring, and other rings; and the lady Tempest returning about August and the trunk being gone, and these particulars talked of, he became vehemently suspected to be the thief. Howbeit her ladyship, not having certain proofs, did not prosecute him; but upon the 14th of January following sir Thomas turned him away, both for suspicion of the said theft, and for some insolent attempts upon his maids.

Maybury being discharged in January, cloaths himself finely, and sets up for a gentleman, goes to the dancing-school at York, intrudes into the company of some of the gentry, appears flush of money, and at the Sunday after Easter he called at Sir Thomas's, desiring to be admitted to prayers into the house, but was positively denied; others of the family (having within some weeks after the said Maybury's being gone) missed 100*l*. in a bag, besides other monies, out of the place where they kept their money. Finding himself much eyed and taken notice of by those who knew him, about May the spark comes to London; and not contented with the name of Maybury, as he used to write himself before, he now assumes the more honourable title of Mowbray, takes lodgings in Holborn, where he spent most part of that summer. He gives himself out also to be a great heir, borrows a gentleman's coach, courts a gentlewoman of quality, having 1500*l*. to her portion; being refused, he writes verses (such as they were) against her. About which time, being in company with some gentlemen, into

L. C. J. When was that?

Bolron. The 7th or 8th of April; the deed bears the 8th of April 1675.

L. C. J. Was Charles Ingleby there at that time?

Bolron. Yes, when the deed was sealed; and he read it in the presence of the witnesses to be dated at that time.

whom he had insinuated himself, he fairly borrowed of them a sum of money, (about 70*l*.) giving them a bill of exchange on his pretended merchant in London for security; but the merchant being soon enquired of, had no advice, nor knew neither Maybury, nor any else concerned in the bill; which therefore being discovered to be a forgery, he leaves his residence above-said, pretending to go in all haste to Warwickshire to take possession of 400*l*. per annum just fallen to him; but in very few days after his old landlord found him in an obscure house near Smithfield, absconding for fear of those he had wronged: On the 24th of December he removes again, pretending to Bishopsgate-street; and in the beginning of February next ensuing, (having debauched and played away his money) as easily as he got it, he made such shift as to return to Leeds, but with a lighter purse, and far heavier heart than he parted from thence; and having formerly, by the charity of sir Thomas, improved his hand-writing, he now sets up a school for that purpose.

Bolron likewise being after some time more than suspected to be an ill man, his accounts of the colliery were inspected, and upon the perusal of them in February 1677-8, he was found to have received about 300*l*. for coals, and accounted for to sir Thomas but 60*l*. whereof much more was due. That he had defrauded sir Thomas very much in other pretended disbursements about the colliery; and that he had taken out of sir Thomas's chamber a book of accounts, whereby it appeared how he had wronged his master more particularly of other monies and dues, and that he returned many persons indebted for coals, who in truth had paid him: Hereupon sir Thomas resolved not only to part with him, but to punish him according to law; but upon his earnest beseeching sir Thomas to shew him mercy, he in compassion accepted of 12*l*. and two bonds for payment of 48*l*. principal more, and so about April 1678 let him go quietly and peaceably away; sir Thomas (like a good christian) being desirous he might amend, and do better in another service.

Mr. Thomas Gascoigne, sir Thomas's eldest son, having resolved, by reason of the troubles to those of his church, or in general to Catholic's, to go beyond seas, as many others did; took leave of sir Thomas in order thereunto at the end of March; and having obtained his majesty's passport on the 4th of April following, he went from London to Dover the 7th of that month, and letters were received from him in his way to Paris, (and as by a public testimonial since sent) he settled himself there the

Just. Dolben. What, that 1,000*l.* was the consideration of the deed?

Bolron. Yes, it was. Sir Thomas Gascoigne did part thereby with all his estate for seven years, he allowing him 100*l.* a year for his maintenance, besides the 1,000*l.* at first paid. And this was done with that intent, for fear he should be discovered in the plot for killing the king—

first of May following new stile, or 20 April old stile, and was not yet departed thence, as many witnesses now in England can testify. About a year after his the said Bolron's departure from sir Thomas, he being still indebted to sir Thomas, and also to others of the family, viz. to Mr. Thomas Gascoigne; and his sister the lady Tempest; and being now become insolent by his own ill government, he declares himself a Protestant, and accordingly takes the oaths at Pontefract sessions; being also called upon for the aforesaid payments, he earnestly pressed one of Mr. Thomas's servants, with whom he thought he was intimate, to assist him to steal a hundred pound from his master, or otherwise to acquaint him where his master's money lay, that he might do it himself; but not prevailing therein, he importuned him at least to steal from sir Thomas the bonds, for which he promised to reward him.

Sir Thomas observing Bolron's declining condition, sent a servant for him, whereat Bolron seemed much concerned, and amongst other things told the messenger, that he had been reading the printed trials, and that he had learned T. O. his way of witnessing so exactly, that he did not doubt to hang any man whom he pleased; but upon the 29th of May he came to sir Thomas, to tender a mortgage of a poor house his father left him at Newcastle; which sir Thomas then slighted, having several others bound with him for the debt, the next day being the remarkable 30th of May last, (and on which day Bolron had laid the ground of his principal accusation;) sir Thomas stirred not from about home, and about six of the clock that evening one of sir Thomas's servants went to the house of Nicholas Shippen, not a quarter of a mile from Bolron's house, and there found Bolron, who said he had lain private there most part of that day for fear of the bailiffs; and moreover, that he would now keep himself concealed, and get into the coal-pit at Castleforth not far off, where he was sure the bailiffs should not find him.

Bolron having by his wife (who was formerly a servant in the family) gotten into one of sir Thomas's farms, and being in arrear of rent also, a declaration of Ejectment was ordered by sir Thomas to be delivered him, and on the 4th of June (following the abovesaid 30th of May) Bolron had notice thereof, about which time Bolron went to sir Thomas's house, and slept up to Mr. Rushton's chamber; but at his coming down seemed much in passion, and told one of sir Thomas's servants, that he had been with Mr. Rushton to borrow 5*l.* but was refused it,

L. C. J. How do you know that?

Bolron. I did hear sir Thomas Gascoigne and sir Miles Stapleton discourse of it, and he said it was for that end.

L. C. J. Where was that discourse?

Bolron. In sir T. Gascoigne's bed-chamber.

Just. Jones. When was that?

Bolron. It was in or about the discovery of the Plot.

and with a great oath vowed to be revenged on him, going away without speaking to sir Thomas.

Bolron having now resolved revenge, told his wife he would now pay sir Thomas all, by mortgaging his house at Newcastle, wherein she had her jointure, if she would give consent to it; she consenting at length, he brought her a writing to sign, purporting her consent, as he pretended, to her. He likewise pretended to sir Thomas's attorney, that he had gained his wife's consent to mortgage or sell the said house, and prayed him to prepare a deed of mortgage thereof to sir Thomas; and he did so, having persuaded sir Thomas to accept it; but it proved ineffectual.

Bolron being become more and more enraged, and having studied the several proclamations which had come forth since T. O. supposed discovery of the plot, goes to Broderton Tyndal, esq.; justice of the peace, and informs him several things against Rushton; and that Mrs. Mary Presseck, wife to sir Thomas's servant, had spoken several strange words concerning his majesty. Afterwards he gave his information to William Lowther, esq. another justice of the peace. After that he attended Mr. Lowther, Mr. Tindal, and Mr. Francis White, esq.; a third neighbouring justice of the peace, and there likewise confirmed to them what he had said the two former days, and then desired four or five days to give them a farther account.

Bolron attending them accordingly, requested that the former information he had given them might be returned to him; but it was told him, that the informations he had given them were sent up to London; and thereupon he resolved to follow them, and prayed them to lend him a little money for his journey, (for he was grown very low) and he said they gave him 3*s.* 6*d.* towards it, and Mr. Tyndal gave him a letter of directions and assistance to his brother in London; but another of them (a neighbour of sir Thomas's) gave him something more to make quicker expedition; but he perceiving that most of the justices would give little faith to his informations, they being made up of hearsays, contradictions, and improbabilities, and Mr. Thomas Gascoigne, whom he involved, being gone beyond sea near two months before the time hinted of the 30th of May; and that therefore they would issue out no warrants against any whom he had accused, but a servant, which otherwise (as the whole country knows) they would most readily have done, he resolved to mend his error when he came to

■ R

L. C. J. But you say you saw the deed sealed?

Bolron. Yes I was a witness to it.

L. C. J. And you saw the money paid?

Bolron. I and one Matthias Heggiringil did help to count it.

Just. Jones. Were you a Protestant at that time?

London; and so by becoming a king's witness to be above all wants, and also be revenged on sir Thomas, and secured from him, and all other his creditors; and in order to those good ends, (he gave out in the country, he would go to Newcastle and sell his house) but instead thereof he hasted to London immediately.

At Ware upon the road he lost justice Tyn-dal's letter; but getting to the Green Dragon in Bishopsgate-street upon the 3rd of July following, he immediately acquainted the landlord with his errand, and by his directions goes in all haste to sir Robert Clayton, and the next day, viz. the 4th of July, he attended the right honourable the lord president Shaftsbury, and the lords of his majesty's privy council, and positively upon oath accuseth sir Thomas and others of consultations in relation to the king's death; for he swore that upon the 30th day of May, he being at sir Thomas's house, sir Thomas bade him go into the gallery, where Rushton, though he were so angry with him the said Bolron, as Bolron swore, for taking the oath of allegiance, that he was ready to have stricken him, nevertheless tempted him in express terms to kill the king; and that upon his refusing to do it, Rushton prayed him however to keep it secret. That waiting by sir Thomas's appointment till his return, sir Thomas about six of the clock that evening took him into his chamber, and having asked him what Rushton said to him, sir Thomas told him, That if he would undertake a design to help to kill the king, he would send him to his son Mr. Thomas Gascoigne, who should instruct him how to do it, and he should have 1,000*l.* reward; but refusing again to have any hand in blood, sir Thomas desired him of all love to keep it secret. Now as to the account the said Bolron then gave of sir Thomas his servants, he declared, that Maybury went away about suspicion of a trunk the lady Tempest had lost, with monies and jewels in it; for then he had not pitched on the said Maybury for his second witness, as afterwards in a month, or thereabouts, he did.

Their lordships presently sent away Bolron and a messenger into Yorkshire for sir Thomas; and in the mean time examined those persons in London, to whom Bolron had directed them where to find or hear of Mr. Thomas Gascoigne, son to sir Thomas mentioned in the abovesaid accusation, and when they saw him last. But their lordships soon found upon enquiry, that Mr. Gascoigne was then and long before gone beyond sea, having set forward for Dover, viz. on the 7th of April, and was so far from being seen since in town by them, that several letters had been received from him beyond sea by the

Bolron. Yes, my Lord, I was at the time of the sealing the deed; but I did hear the discourse between sir Miles Stapleton and sir T. Gascoigne upon the discovery of the plot, when I was a papist.

L. C. J. When was the discourse you speak of with sir Miles Stapleton, do you say?

post, with the post mark on them, which caused strange reflections on this new evidence given by Bolron: and therefore these persons being separately examined by the lord president, were admonished to take great care what they answered, for that it was sworn (by Bolron and another) that Mr. Gascoigne was seen at London both the beginning and latter end of May by several; whereto it was replied by one of them under examination, That on that 30th of May he assisted in a cause or law-suit of sir Thomas's against one Mr. Nelthorp in London, and that his son's presence, if he were in London, had been necessary, and that if Mr. Thomas had been any where near, he would have appeared at it to have supplied his father's place at the said trial in Chancery: nay Bolron himself has since deposed, that one principal cause of Mr. Gascoigne's coming to town when he left the country, was this very law business with Mr. Nelthorp, how truly the effect hath shewn, as well as of the rest of those allegations.

The 7th of July sir Thomas was taken into custody, late at night, out of his house at Barnbow, 14 miles from York, and Bolron caused a warrant to be served on his own wife and grand-mother, to testify before Mr. Lowther and Mr. Tindal what they knew of the things they had charged sir Thomas with; but they were very unwilling to go, and protested before God, that they never knew nor heard of any ill by the said sir Thomas, or any thing in the least ways concerning any wicked design against the king's person, the government, or religion of the nation. Whereupon the said Bolron being much enraged, swore and threatened, and then said, if they would go and testify what he had sworn against sir Thomas, he should get 500*l.* by it; but if they refused to do so, he should be utterly undone; after this Bolron was very melancholy, and being asked if his conscience did not trouble him for what he had sworn against sir Thomas, he declared, that if some persons would pass it by, he would not prosecute him any further. One of sir Thomas's servants went to Bolron's house that night about nine o'clock, and found Bolron's wife in bed crying extremely, complaining that her husband had lately made her set her hand to a writing, pretending to her that it only concerned her consent to part with her right to the house at Newcastle, which she willingly agreed to; but she now found it was a writing wherein her husband had accused sir Thomas, and several others, but had not found proper to produce it as yet.

The 18th of that month sir Thomas was examined at the council-board, and the day fol-

Bolron. It was about the discovery of the Plot.

L. C. J. After the money paid?

Bolron. Yes, after the money paid: and he said to sir Miles Stapleton, he had done well to make over his estate.

lowing he was committed to the Tower; now Bolron (who was also returned) considering that he had often named Mr. Corker, (a prisoner in Newgate) as a man he intimately knew, though in truth he had never seen him in his life; and thinking also that it was necessary he should be able to distinguish him at least from other men, (against the time he should be brought to charge him about the Plot, and about the monies returned to him) he came on the 22d of July last to the press-yard at Newgate, in another man's name, desiring the turn-key to bring Mr. Corker to him; Mr. Corker being informed that a stranger would speak with him, very prudently desired a gentleman then present to step down, and see who it was; the gentleman coming into the box, and asking before some Protestants that were by, who would speak with Mr. Corker? Bolron supposing him to be the man, called him Mr. Corker, and asked him how he did, pretending a particular knowledge of him, and several years acquaintance with him; whereat the gentleman following the humour, sate down by him, and drank with him; so that the familiarity encreasing, Bolron (among other things) told him he had several times heard him say mass; whereupon Mr. Corker being made acquainted with this pleasant passage, came down to the box likewise, and sate by Bolron, who knew him not in the least, but wholly applied himself to the other; all which the Protestants, and others present, have attested under their hands.

The like accident happened to Bolron the last summer assizes at York; for there he demanded of Mr. Butler the gaoler a sight of his prisoners, (a method learned of the confraternity at London, to whom all prisons were open at their call) and having there thoroughly viewed and surveyed one Lambert, he at length saluted him by the name of one Osbaldestone; who answering that he was not the man, Bolron told him that he was, and that he would swear that he heard him say mass: whereon Mr. Butler replied, that he was a rash man, for that Lambert was a tradesman, as several could testify, and besides, Osbaldestone was 25 years elder.

At this time Bolron becoming more known in London, and familiar, was advertised by some of his new colleagues, and well-wishers, in plain language, that he had made a mighty false step in swearing on the 4th of July, That sir Thomas had said to him on the 30th of May last, that if he would assist to kill the king, he would send him to his son Thomas, who would instruct him how to do it, and that he should have 1,000*l.* reward; whereas in truth it was found that Mr. Thomas Gascoigne was gone to Paris

L. C. J. That is an abrupt thing for him to say; how did he begin the discourse?

Bolron. They were discoursing about the discovery of the Plot by Dr. Oates and Mr. Bedlow; and then sir T. Gascoigne said to sir Miles Stapleton, I have done well to make

about eight weeks before that 30th of May, with his majesty's licence or passport, and had continued there ever since in much company. Bolron was extremely surprized in having so unluckily named Mr. Tho. Gascoigne to be his assistant to kill the king, at a time when he was not upon the land, nor of so many weeks before had been, and which his former deposition implied, and as he had assured the lords on oath, and they had found it different, Bolron was at a loss, but his brethren had bethought them of a salvo; he confided the point to others also, shews them copies of all, and it was resolved the redress should be by a second additional information (given in about the end of the said July) to reconcile the former, and to cover the artifice of it by a latter superfection of such old and new things as might be proper, and seem natural; but it is plain, the drift of the said addition was to make sir Thomas have spoken to him in these different words from his former, viz. If thou wilt undertake to assist to kill the king, I will send thee to my son, (if in town) who, with the rest that are concerned, shall instruct thee how thou shalt assist in it, and thou shalt have 1,000*l.* reward. Having sworn thus in his second deposition, and composed the matter as he thought, the consult advised him to apply now to the greatest difficulty, which was to get a second witness, who might confirm what he had already sworn.

Therefore about the beginning of August he sets out for Yorkshire; and pretending he had many priests and others concerned in his Plot, he obtained monies and commissions to seize and secure all such papists as he found obnoxious; and under this pretence going to Leeds, he wonderfully caressed his old fellow-servant Maybury, informs him of the several proclamations, narratives, and other transactions at London, shews him how much the world was mended with him, tells him how easy it is, not only to get a pardon for any former felony, forgeries, &c. but to make ones fortunes for ever, and also to be revenged on all enemies. And that certainly the lady Tempest (daughter to sir Thomas Gascoigne) could not be deemed his friend, who had so defamed him, and blasted his reputation in her noise about her trunk, and the monies taken from the family, which in time might have a worse effect, and he suffer for it, when too late to repent the loss of this golden opportunity to destroy her and secure himself.

Maybury thus won in a few days, declares himself a witness, notwithstanding he had a few days before protested to several, (who were amazed at sir Thomas's charge) that he believed him to be most unjustly accused; nay Bolron was so pleased with his new conquest, that he

over my estate to sir William Ingleby, to prevent a forfeiture.

L. C. J. What said sir Miles Stapleton?

Bolron. I do not know what he said very well.

L. C. J. You seemed but now, as if he had said he was in the Plot.

tells a young woman, (whom Maybury courted) that she might marry him now with satisfaction; for that he had engaged him, the said Maybury, in a business against sir Thomas, and that he should be well rewarded out of his estate, and come to great preferment. Methods and circumstances being now fully settled and agreed upon by them, Maybury goes to Mr. Tyndal and Lowther, justices of peace, and acquaints them in short of his business; whereupon the 16th of August the said Maybury informs them upon oath, (and as it appears in his narrative more at large) that sir Thomas Gascoigne and sir Miles Stapleton had made deeds of trust of their estates, and that about Michaelmas 1676, sir Thomas, his son Mr. Thomas, the lady Tempest, and Mr. Rushton, being in Barnbow dining room, he heard them holding several discourses concerning killing the king, and firing of London and York, &c. — That there was in the house one Dr. Stapleton, who coming from another room, and finding him at the door, went in, and in a low voice desired them to forbear their discourse, for there was one at the door. — And thereupon her ladyship called him in, and sent him down to entertain some strangers; and that he heard several discourses from sir Thomas and Rushton about a nunnery to be established at Dolebank, and of sir Thomas's selling 90l. per annum for maintaining it.

Whilst Maybury was hugging himself with Bolron, that this information would suddenly be at the council board, he found more than a fortnight passed, and no manner of notice taken of him, his impatience prompts him the last of that month to write to sir John Nicholas, that there were divers material circumstances relating to his discovery, which were not inserted in his first information before the justices, which should be declared when the council should command a full account from him. Upon this he had a summons by a messenger sent him on purpose, and a letter superscribed To Mr. Lawrence Mowbray, at his house in Yorkshire; and so repairing to London on the 2nd of October following, he informed justice Warcup by order of council upon oath, that he had not discovered all he knew of the horrid plot, for fear of Yorkshire papists, whom he was to detect: but now would do it, conceiving himself under the protection of the council, and hoping that they would intercede for his pardon.

There wanted not several of different conceptions, who (on occasion of the imperfect and defective management of this trial, by reason of the prisoner's being decayed, as well in mind as body) did speak and vote variously of

Justice Jones. Did he own he was in the Plot?

Bolron. Yes.

L. C. J. When?

Bolron. At several times.

Serj. Maynard. Tell the manner how he was concerned.

the success, so that some of the jury moved at it, did give out minutes of the trial, and the reasons which led them to their verdict, to many of their acquaintance, and in reality who conversed the prisoner more intimately did perceive he was become very incapable and unfit for such a performance, being dosed with years, his sense decayed, and his mind disused and abstracted of late from conversation. The pamphlets of the age have made him since his trial a fugitive beyond seas; but his unsatiable prosecutors have him in fresh pursuit here on new pretences, and have wearied the Attorney General with search and exposition of the laws, to bind and fasten him on some new tenter; yet the old gentleman prays for them and the nation; his life is at the king's service, and his soul travelling to his Creator, who hath also witnessed for him, given him length of days on the land, a blessing promised of old to those who honour and obey their superiors, as he professes to have done, and hopes it will appear better when some of those persons come upon their last pillow, where God grant them his grace and true repentance. 'Magna est veritas et prævalebit.'

An ATTESTATION of a certain Intercourse had between ROBERT BOLRON, and Mr. THOMAS LANGHORN, (mistaken by Bolron for Mr. Ja. Corker) wherein is manifested the Falshood and Perjury of the said Bolron.

On the 22nd of July 1679, there came to the Press yard adjacent to Newgate two persons, the one called himself by the name of Baker, and the other called himself by the name of James. Baker declared he was the man who had accused Mrs. Preswike, and Mr. Thwing, and is now known to be Bolron. These persons told the Turnkey they came to speak with Mr. Corker: Hereupon they were led into a drinking room, and Mr. Corker was called; but he having experienced the falsified oaths of others who had never seen him, and happily reflecting these might be such, desired Mr. Thomas Langhorn, who was by chance there, to go down and see who they were; the which Mr. Tho. Langhorn did; and coming into the company of Bolron, this discourse followed. Mr. Langhorn said, Would you speak with me? Bolron answered, Your servant Mr. Corker. Mr. Langhorn said, Do you know me? Bolron answered, Yes, I know you well, you will not deny yourself to be Mr. Corker? Mr. Langhorn said, Deny myself? what are you? what is your name? Bolron answered, You know my wife well, and I know you well, and I have known you several years, and seen you in such and such places, (which places he named.)

Bolron. My Lord, in 1676, I did hear sir T. Gascoigne say to one Christopher Metcalfe, that he was resolved to send 3,000*l.* to the Jesuits in London for the carrying on of the design.

L. C. J. What time in 1676?

Bolron. The beginning of the year 1676.

L. C. J. To whom did he say so?

Bolron. To one Christopher Metcalfe.

L. C. J. Were you a papist then?

Bolron. Yes.

L. C. J. When came you first to be a papist?

Bolron. About Whitsuntide, 1675.

Just. Jones. You are a Protestant now?

Bolron. Yes my Lord, I am so.

L. C. J. When did you turn Protestant again?

Bolron. I turned Protestant upon the discovery of this business.

L. C. J. When?

Bolron. Either the beginning of May, or the latter end of June.

L. C. J. To whom did he speak it?

Bolron. To Christopher Metcalfe, who then lived in his house.

L. C. J. What said he?

Bolron. He said it was to send 3,000*l.* to the

After some time spent in discourse to this and the like effect, Mr. Corker himself, together with an under clerk of the press yard, came into their company; but Bolron neither owning nor knowing Mr. Corker, the discourse continued, amongst other things, (Bolron still addressing himself to Mr. Langhorn) affirmed several times, That he knew him to be Mr. Corker, and confirmed it by often calling him Mr. Corker, and saying to him, I have seen you sometimes in the company of Mr. Hubbard, and sometimes in the company of Mr. Pepper, in the company of Mr. Haskit, and several others; I have seen you in London, and in the country in Yorkshire. Using further expressions of a long endeared familiarity with him. At length Mr. Corker, wearied with his impertinencies, going out of the room, Bolron enquired who that gentleman was? Soon after the turnkey coming by chance in, with wine and tobacco, Bolron in the presence of the said turnkey, Mr. Thomas Langhorn, and the said under clerk, called Mr. Langhorn by the name of Mr. Corker, and said he knew him; and being desired by Mr. Langhorn to tell what he knew of him he again positively affirmed, that he knew him; and added in the presence of the aforesaid witnesses these words, I know you to be a priest, and I have seen you say mass.

The under clerk admiring the impudence of Bolron, herein jestingly told him, that seeing he pretended so much friendship and acquaintance with Mr. Corker, he would do well to do him a kindness in not revealing what he knew; and if you do him a pennyworth of kindness, said the said clerk, Mr. Corker will give you a pound for it. Bolron answered, Ay, then something may be done. Mr. Langhorn, who all this while was supposed by the said Bolron to be Mr. Corker, replied, I will give nothing by way

Jesuits in London, for the carrying on of this design.

L. C. J. Who was in the room besides?

Bolron. None but sir T. Gascoigne and Metcalfe.

L. C. J. Where is that Metcalfe?

Bolron. He is since dead, I think.

L. C. J. What discourse had they about the design?

Bolron. They were discoursing about it when I came in; and I remember he mentioned 300*l.* for Corker, 300*l.* for Harcourt, and 300*l.* for Cornwallis; and the rest by 300*l.* a-piece to other persons.

Att. Gen. What name did Cornwallis go by besides?

Bolron. Pracid, my Lord.

Att. Gen. That is the name that is to the letter.

Just. Pemberton. Well, what do you know more?

Bolron. My Lord, sir T. Gascoigne told this Christ. Metcalfe, that he would return it by 300*l.* at a time, to prevent suspicion, by the hands of Richard Phisick; and about the beginning of 1677, I did hear sir T. Gascoigne say,

of bribe. Bolron answered No, I will take nothing by that name. This is the substance of this intercourse, and will be attested to be true, as it is here respectively set down.

Now notwithstanding this so often repeated confident asseveration of Bolron's intimate acquaintance and familiarity with Mr. Corker, seconded here by so many pretended circumstantial instances of known friendship with him; yet it is most certain, that he never knew or saw Mr. Corker, till this before mentioned intercourse at Newgate: As is palpably manifest, both in that he took Mr. Langhorn for Mr. Corker, and conversed with him as such in the very presence of Mr. Corker. And also in that Mr. Corker being brought to Bolron's face before the lords of his majesty's privy council on the 13th of this present October, he denied Mr. Corker to be the man that was shewn to him at Newgate. And after a long and full view had of Mr. Corker, he durst not positively affirm, that the person there present was he against whom he had any thing to say; but expressing himself doubtfully, desired time of deliberation in it.

These notorious undeniable contradictions, will it is hoped, convince judicious men, that no credit ought to be given, in a matter of no less than High-Treason, to an indigent wretch, of a lost conscience, and condemned of falsehood by the testimony of his own mouth.

We under-written do respectively testify, That what is here said of the intercourse had between Mr. Bolron, and Mr. Thomas Langhorn, is true in the whole, and every part thereof. Witness our hands the 12th day of January, 1679.

Witnessed in the presence of E. Smith, Jonathan Grove, Francis Leea, Tho. Matchet, Booke Bookey, Tho. Langhorn.

that he had returned it, and that if it had been a thousand times as much, he would be glad to spend it all in so good a cause.

L. C. J. Did he say he had returned all the 3,000*l.*?

Bolton. Yes.

L. C. J. Did he tell you how it was to be disposed of?

Bolton. It was to be disposed among the Jesuits for the carrying on of the design.

L. C. J. That was in the general; but this 900*l.* you speak of was to those three priests?

Bolton. Yes.

Just. Jones. You say he resolved to send 3,000*l.* to the Jesuits at London about this design: pray what was the design? What did they say about the Plot at that time?

Bolton. My Lord, at other times I have heard them say it was for killing the king.

L. C. J. What said Metcalfe to all this?

Bolton. He did allow of it, and thought it was the best way so to do. I have seen him return several sums by Richard Phisick.

Justice Dolben. Was Metcalfe a papist?

Bolton. Yes, and he died so, as I have heard.

L. C. J. Was you in the room when they first began the discourse?

Bolton. No, my lord, I came in when they were discoursing.

L. C. J. You came in when they were talking, you say; but they did not stop talking because you came in?

Bolton. No, my lord, because I knew of it; I was brought in by one Rushton, who was acquainted with the plot, to know of it, and therefore they did not stop me when I came in.

L. C. J. You say he said, I will return 3,000*l.* to the Jesuits in London: Did he say in what time he would send that 3,000*l.*?

Bolton. No, but in 1676 he said he would do it.

L. C. J. And it should be employed for carrying on of the design?

Bolton. Yes, those were the words.

L. C. J. And in 1677 you heard him talk with Metcalfe again? And then he said, If it had been a thousand times as much he would have sent it?

Bolton. Yes.

L. C. J. Was nobody there but he, sir T. Gascoigne, and you?

Bolton. Nobody else.

L. C. J. Then go on with your evidence.

Bolton. My lord, in 1677 several gentlemen did meet and assemble together at Barnbow-hall in the county of York, sir T. Gascoigne's house; and their resolution was this, That they would build a nunnery at Dolebank, in case that their design and plot of killing the king should take effect, and the Roman catholic religion be established in England; upon which account, the company there present did resolve they would lose their lives and estates to further it; And sir T. Gascoigne did conclude he would give 90*l.* a year for ever for the maintenance of this nunnery; upon which they all

agreed, that after his death he should be canonized a saint.

L. C. J. Who were these gentlemen?

Bolton. Sir Miles Stapleton, Charles Ingleby, esq. Gascoigne, my lady Tempest, Thomas Thwing; sir Walter Vevator, sir Francis Hungatt, and Robert Killingbeck, a Jesuit, and William Rushton a Romish priest.

Justice Pemberton. Is he dead?

Bolton. No, he is fled beyond sea.

L. C. J. Who else?

Bolton. These are the persons I can remember at present.

L. C. J. There was a woman there, you say?

Bolton. My lady Tempest, my lord, and one William Rushton, if you had not him before.

Justice Dolben. That was your confessor?

Bolton. Yes, and engaged me in the plot.

Justice Pemberton. What was your discourse? Pray tell that.

Bolton. The discourse was upon establishing a nunnery at Dolebank, in hopes that the plot of killing the king would take effect; the intention was to alter the government, and to introduce the Romish religion.

L. C. J. Who was it said this?

Bolton. It was spoken by sir T. Gascoigne, and the rest of the gentlemen.

L. C. J. In their discourse?

Bolton. Yes.

L. C. J. Did they speak of killing the king?

Bolton. Yes, my lord, sir Francis Hungatt said it several times.

L. C. J. How? Upon what account?

Bolton. They were mutually resolved, and they would talk that they would venture their lives and estates in hopes that the plot would take effect; and accordingly about Michaelmas 1677, or near upon, as I remember——

L. C. J. How long staid they there?

Bolton. About six or seven hours.

L. C. J. Were you with them in the room still?

Bolton. My lord, I was sometimes in the room, and sometimes out: What discourse I heard, I tell you; there was one Barloe——

L. C. J. What was that Barloe?

Bolton. I have had two orders of council for the seizing of him, and never could take him; he is a priest.

L. C. J. Was he by?

Bolton. He went with them to take possession of the nunnery.

L. C. J. Was he not in the house?

Bolton. No, not in the room at that time.

L. C. J. Was there any servant by in the room when this discourse was?

Bolton. No.

L. C. J. Well, go on.

Bolton. Accordingly sir T. Gascoigne did erect a nunnery about the year 1677, at Dolebank.

L. C. J. What, built it?

Bolton. He established it.

L. C. J. Who were the nuns?

Bolron. Mrs. Lashals was lady abbess, Mrs. Beckwith and Mrs. Benningfield were her assistants, Elling Thwing, Eliz. Butcher, and others, were nuns, according as I heard sir T. Gascoigne say; and when they went by sir T. Gascoigne, when one Mary Root was taking horse, sir T. Gascoigne said of her, There goes an old maid and a young nun.

L. C. J. Whither were they going then?

Bolron. To take possession of the nunnery.

L. C. J. Was it a new built house?

Bolron. They called it a nunnery in hopes their plot would take effect.

L. C. J. Was it an old or a new built house?

Bolron. Nay, I never saw it.

L. C. J. Whereabouts was this house?

Bolron. It was near Ripley.

L. C. J. What, was that Ripley his house?

Bolron. No, his house is at Barnbow.

L. C. J. Who did it belong to?

Bolron. They went thither till the business was done, and that was only till the king was killed, and afterwards they resolved to reside at Heworth.

L. C. J. How long staid they there?

Bolron. They lived in this place near a year and half.

L. C. J. Till the plot was discovered?

Bolron. Yes.

Justice Jones. How do you know they lived there?

Bolron. I have seen several times letters come from their hands.

Justice Jones. How do you know they came from thence?

Bolron. The letters were dated from Dolebank.

L. C. J. Did he let them lie open?

Bolron. Sometimes he did.

L. C. J. What was in them.

Bolron. I don't know any of the particulars, there was no great matter in them.

L. C. J. Who writ them?

Bolron. The name that I saw was Pracid, or from Mrs. Lashals.

Att. Gen. They, or some of them.

L. C. J. You do not know whose house it was?—*Bolron.* No, my lord, not I.

L. C. J. Where is Heworth-hall?

Bolron. Heworth-hall is about half a mile off of York.

Justice Dolben. Does not that belong to one Mr. Dawson?

Bolron. It did, but it was bought of him.

Att. Gen. What other place did you hear him mention?

Bolron. Broughton, my lord, but I never knew that any were there.

L. C. J. Nor at Heworth-hall?

Bolron. Yes, my lord, sometimes one and sometimes the other; some of them came to Heworth-hall, and some to Dolebank, but Dolebank was the place they did generally reside at: And then sir Thomas did establish 90*l.* a year, which was purchased of Mr. T. Malaverer, and Alver Aloftus enjoys it.

L. C. J. How much was it?

Bolron. 90*l.* a year.

L. C. J. Where does it lie?

Bolron. It lies at a place called Mangon, near sir T. Gascoigne's house.

L. C. J. Did he say he had sealed such a conveyance?

Justice Dolben. I suppose he bought it of Dawson.

Bolron. He bought it of Maleverer.

L. C. J. Is Maleverer a protestant?

Bolron. Yes, my lord.

L. C. J. Where is he?

Bolron. I can't tell.

Justice Jones. You did not see the conveyance of it yourself sealed?

Bolron. No, I refer to their words for that.

Justice Jones. To what purpose was it bought?

Bolron. To establish a nunnery.

Justice Pemberton. And they told him he should be canonized for a saint when he died.

Bolron. Yes, my lord.

L. C. J. Well, go on, then.

Bolron. My lord, about March last, to the best of my remembrance, sir T. Gascoigne and esquire Gascoigne being in their chamber together, I was reading a book called 'The Lives of the Saints,' and esquire Gascoigne told sir Thomas that he had been before the justices of the peace, and they had given to him and Mr. Middleton license to go up to London, which mentioned, that in consideration that there was a suit in law between James Nelthorp, esq. and sir T. Gascoigne, therefore it permitted the said T. Gascoigne, esq. and his man to travel peaceably to London. And I did hear the other copy read of Mr. Middleton's license to travel in the south, and for his occasion into the south parts was pretended to receive some rents there. But I did hear esquire Gascoigne say to sir Thomas, that he was resolved as soon as he came to London, and had done with Mr. Nelthorp, that he would fly into France, and so cheat the justices, for he was resolved not to come back to Yorkshire again, but he would commit the design in agitation into such hands as would do it, and would not fail, but he would not stay to see execution.

L. C. J. You heard him say so?

Bolron. Yes, I did.

L. C. J. What said sir Thomas?

Bolron. He commended his son's and Mr. Middleton's resolutions.

L. C. J. What room was it in?

Bolron. It was in sir Thomas's own chamber.

L. C. J. Were there any rooms near it?

Bolron. None that they could hear in, unless in the chamber within, I do not know whether any one was there or no.

L. C. J. Could they hear in no room that was near to them?

Bolron. Yes, in the chamber within.

L. C. J. Was there no servant there?

Bolron. Not as I know.

L. C. J. My reason is, because he must speak very loud to make his father hear him.

Bolron. Yes, he did, for I heard him in the chamber-window that I stood in against them, they were a little way off me.

L. C. J. Because, if any of the servants were in, I nethinks they must needs be very cautious how they spoke so loud to make sir T. Gascoigne hear.

Bolron. My lord, he was not so deaf then as they say he is, and he seems to be now. And esquire Gascoigne also, because he would be sure there should no damage come to him, caused all his goods to be sold off his ground, and Mr. Middleton sold his very household-goods.

L. C. J. He is a Papist too, is he not?

Bolron. Yes, he is so.

L. C. J. Was not he at the meeting with sir Miles Stapleton?

Bolron. Yes, Mr. Middleton was one.

L. C. J. You did not name him before.

Just. Pemberton. But he said a great many were there besides those he named.

Just. Dolben. Yes, he did so. Well, go on, Sir.

Bolron. My lord, last 30th of May, the day after holy Thursday, as I remember, being in sir T. Gascoigne's own chamber, sir Thomas bid me go into the gallery next to the priest's lodgings, and after a little time one William Rushton, my confessor, came to me, and asked me, if I was at the last Pontefract sessions? I told him, Yes, and that I had taken the oath of Allegiance, as others had done: Whereupon the said Rushton told me, that I and all the others were damned for so doing, if we kept the same; therefore he bid me be sure to come next Sunday to have absolution from him; for it was a damnable sin to take that oath, and he told me, he had power from the pope to absolve me; and he added, that few priests had that power that he had.

L. C. J. Did he make you confess that as a sin to him?

Bolron. No, my lord, for I did make the discovery soon after.

L. C. J. When was it you first turned Protestant?

Bolron. In June, my lord, after that.

L. C. J. Then you were not a Protestant at that time?

Bolron. No, my lord.

L. C. J. Were you a Papist when you took the oath of allegiance?

Bolron. Yes, my lord, I was.

L. C. J. Why would not you, then, go and be absolved according as your priest bid you?

Bolron. I thought I had done nothing that was evil, because several had taken oath with me, as you shall hear afterward.

L. C. J. Well, go on.

Bolron. I told him that several others had done it as well as I, that were papists, and they judged it lawful; whereupon he said, away, and told me I was a fool, and knew not how to judge of an oath.

L. C. J. So you were satisfied the papists might take the oath?

Bolron. My lord, I told him I thought it was no sin to take that oath, because it was an oath only to be true to my king and to my country; and I told him that Mr. Ellis, a priest to Mr. Vavasor, had written commentaries upon the oath, and justified the taking of it. Said he again, Mr. Ellis was a fool, and his superiors will call him to an account, and check him for his pains. But, said he, by taking the oath you have denied the power of the pope to absolve you from it; but I tell you he hath power to depose the king, and had done it: And, said he, you will merit Heaven if you will kill him.

L. C. J. Who spoke to you?

Bolron. Rushton, my lord, said it was a meritorious act to kill the king.

L. C. J. But did sir Thomas Gascoigne, or any of the company, wish you to do that thing?

Bolron. Not at that meeting; but afterwards sir Thomas did, my lord, if you will give me leave to go on.

L. C. J. What did he say?

Bolron. He told me he would assist me in the act.

L. C. J. Who?

Bolron. Rushton did. And he told me the pope had granted him the power, that I should have the benefit of absolution if I would do it. I desired him not to persuade me to do such a thing, for I would have no hand in it; then he quoted a certain place of Scripture to me, which was, 'Thou shalt bind their kings in fetters, and their princes in chains.' Whereupon he concluded, and made this exposition, that the pope, had deposed the king, and absolved all his subjects, and it was a meritorious act to kill the king. And that unless the king would turn Roman Catholic, the pope would give away his kingdoms to another.

L. C. J. Well, go on.

Bolron. Then I told him I would have no hand in that act and deed; whereupon he answered me again, You may hang me, if you please, for speaking these words. No, Sir, said I, I will do you no injury, if you do yourself none. So he bid me consider what he said, and come to him again, but I did not.

L. C. J. This was the 30th of May?

Bolron. Yes, and the same day as soon as I came down, I was told sir Thomas Gascoigne had left order with his servants that I should not depart the house till he came in, and I stayed there till about six of the clock.

L. C. J. Did not you live with him then?

Bolron. I lived a little way off the house.

L. C. J. How far?

Bolron. About a quarter of a mile.

L. C. J. Were you not his servant?

Bolron. No, my lord, not at that time.

Just. Jones. How long had you been gone out of his service before?

Bolron. I went out of his service about the beginning of July 1678.

Just. Pemberton. Did sir T. Gascoigne send you into this gallery?

Bolron. Yes, my lord.

Just. Pemberton. And there you found Rush-ton?

Bolron. My lord, he was not there when I came, but he came as it were from chapel.

L. C. J. You were his servant when all the gentlemen met at his house?

Bolron. Yes, my lord, I was.

L. C. J. When did you leave his service, say you?

Bolron. The 1st of July 1678.

L. C. J. And this was in May, 1678, was it not?

Bolron. No, in 1679, my lord, last May. My lord, I watched and stayed till he came in, and took him as he came in. I went up stairs with him, and when he came into his chamber he calls me to him, and asked me what discourse had passed between me and Rushton? I told him our discourse was concerning the oath of allegiance, and the lawfulness or unlawfulness of it. Then sir T. Gascoigne took me by the hand, and told me, Well, man, if thou wilt undertake a design that I and others have to kill the king, I will give thee 1,000*l.* and I will send thee to my son Thomas, if he be in town; but if he be not in town, he said he would give me such instructions that I should find the rest that were concerned in the business—

L. C. J. The rest, what?

Bolron. The rest that were in the Plot.

L. C. J. That you should know where to find them in London, you mean so?

Bolron. Yes, my lord, if he were gone beyond sea.

L. C. J. What said you to him?

Bolron. My lord, I told him I would have no hand in blood, and would not do such a wicked deed, and desired him to persuade me no more. Then he desired me of all love to keep secret what he had said. But afterwards I recollected that it was a very ill thing, and went immediately to the justices of the peace—

L. C. J. How soon did you go?

Bolron. Soon after.

L. C. J. To whom did you go?

Bolron. To Mr. Tindal, a justice of peace, and to Mr. Normanton.

L. C. J. Did you make an oath there?

Bolron. Yes, that sir Thomas promised me 1,000*l.*

L. C. J. And for what purpose?

Bolron. For killing the king.

L. C. J. Did you put that in the oath you made?

Bolron. Yes, my lord.

L. C. J. What time was this after the discourse?

Bolron. It was about a week, or such a time.

L. C. J. Was it the next day?

Bolron. No.

L. C. J. Was it within a fortnight?

Bolron. Yes, I believe it was, my lord.

L. C. J. Was it not a month?

Bolron. No, it was not above a fortnight, for

VOL. VII.

sir T. Gascoigne was apprehended in July or thereabouts, I believe, my lord.

L. C. J. But was that the first time that sir Thomas ever spake to you to kill the king, the 30th of May?

Bolron. Yes, my lord.

Justice Jones. You say you left sir Thomas's service in July, 1678?

Bolron. Yes, the first day of July.

L. C. J. How? Did you leave him in good friendship?

Bolron. Yes, my lord, in very good friendship.

Justice Jones. Were you in good correspondence?

Bolron. I always went to his house to hear mass, and oftentimes was there.

L. C. J. How came you to leave his service?

Bolron. It was my own fault I left it.

L. C. J. Why, it might be no fault neither. But why did you leave it?

Bolron. My lord, it was because there was one Henry Addison and Bennet Johnson did seek to take my work and service out of my hands. Sir Thomas Gascoigne did desire me to let them come in and see what they could do, and that I should have my salary, and that I should gather in his debts; I was willing to be rid of it, and told him, they that looked after the pit should gather in the debts, for I conceived else it would be but a double charge to him.

Justice Dolben. This is only how he left sir Thomas's service; sir Thomas thought the other men could do it better than he, and so, said he, then let them do your whole work.

Justice Jones. But he says he did usually resort to the house after he had left his service, to hear mass.

Justice Dolben. They will ask him some questions, it may be.

L. C. J. Had you any estate of your own when you left sir Thomas's service?

Bolron. Yes, I had a farm I rented of sir T. Gascoigne.

L. C. J. What rent?

Bolron. 15*l.* and a mark a year, after I was married.

L. C. J. When were you married?

Bolron. In July 1675, but afterwards I was there, and did still service.

Att. Gen. I think you have some estate of your own besides that?

Bolron. Yes, I have 7*l.* a year.

Att. Gen. Well, will you for sir Thomas ask him any questions?

Babbington. No.

L. C. J. Mr. Bolron, Pray what did the justice say to you when you made this oath?

Bolron. My lord, thus: I was resolved to come to London, and make my confession here, and desired I might so do; whereupon one of the justices was unwilling, but at last they said I might do what I would.

L. C. J. You say, justice Tindal it was sworn before, what did he say when you made the oath?

3 S

Bolron. My lord, as I remember, he said, he must give the council an account of it, and perhaps he should not have an answer of it in a month after; so I thought it was better to come to London, and make a speedy dispatch of the business; for I did not know but the priests in the mean time might escape.

L. C. J. But did Mr. Tindal do nothing upon that oath that was made?

Bolron. Yes, he did make out his warrant for the apprehending of one.

L. C. J. Did he not make out a warrant for the apprehending of sir T. Gascoigne?

Bolron. My lord, I think they would have done it, but I desired I might come to the council.

Justice Pemberton. How long after came you there?

Bolron. As soon as I could get ready.

L. C. J. What time came you thither?

Bolron. My lord, I set out upon Monday, and came hither to London upon Wednesday.

L. C. J. Do you know what month it was in?—*Bolron.* In June it was, I think.

L. C. J. And who did you come and apply yourself to in London, when you came there?

Bolron. My lord, I had a letter directed from Mr. Justice Tindal to his brother Tindal in London, to carry me to the council. I chanced to lose this letter at Ware, and losing it there, I came to the Green Dragon in Bishops-gate street, I was acquainted with the man of the house, and having told him some of my business, he carried me before sir Robert Clayton, and then we went to my lord of Shaftsbury, president of the council, and presently got an order of the council about me.

L. C. J. How long was this after Dr. Oates's discovery? When did Oates and Bedlow make their discovery?

Justice Pemberton. This was a long time after, in May last.

Justice Jones. Did Mr. Tindal take your examination in writing?

Bolron. He took a short thing in writing.

Justice Jones. Did you set your hand to it?

Justice Pemberton. He resolved to go to the council, and tell them.

Bolron. I was not willing to tell the justices all, for I had a mind to go to the council.

Justice Jones. But you told them the great matter of all, sir Thomas's proffer to give you 1,000*l.* to kill the king?

Bolron. Yes.

Justice Jones. Had you a lease of your farm under sir T. Gascoigne?

Bolron. It was but a lease paroll.

Justice Jones. For how long?

Bolron. For 9 years.

Babington. May I have leave to ask him any questions?

Court. Yes, yes, you may.

Mr. Babington. You say you had a lease of the farm, a lease paroll?

Bolron. Yes, I had so.

Serj. Maynard. Counsel must not be allowed in matter of fact, my lord.

L. C. J. But brother, this man hath made a long narrative.

Serj. Maynard. Ay, and a shrewd one too.

L. C. J. His evidence is very great, and sir T. Gascoigne does not hear any one word.

Bolron. One thing more I would speak to. It was in September 1678, a little before the discovery of the Plot, I did hear sir Thomas Gascoigne say, and tell my lady Tempest, that he would send 150*l.* to Dolebank, in hopes the blow would be given shortly.

Serj. Maynard. That is the same word used by all the witnesses.

L. C. J. When was this?

Bolron. In September 1678; the Plot was not known by us to be discovered then as I know of.

L. C. J. Who did he speak it to?

Bolron. To his daughter, the lady Tempest.

L. C. J. What said she?

Bolron. She seemed to like it very well; I did not hear any thing to the contrary: And I heard a letter read afterwards from Cornwallis, that he had received it, but it was too little for the carrying on so great a design.

L. C. J. Who is Cornwallis?

Bolron. And it was for the arming the poor catholics when the blow should be given.

L. C. J. Is his daughter living?

Att. Gen. Yes, she is out under bail.

Recorder. My lord, I shall desire to ask but one question, which concerns the prisoner at the bar how long after the discourse that you had with the priest in the Gallery was it that sir T. Gascoigne spoke to you of the same thing?

Just. Pemberton. Mr. Recorder, if you ask him but one question, let it not be that which he hath answered before; he says the same day.

Mr. Hobart. I desire to ask him one question.

Just. Pemberton. No, tell sir Thomas first what he hath said, and see if he will ask him any questions.

Mr. Hobart. Sir Thomas, here is Mr. Bolron hath given evidence against you, will you ask him any questions?

Just. Pemberton. Read your minutes to him.

Then Mr. Hobart repeated the first part, about his coming to sir T. Gascoigne's service, and the Colliery conveyance.

Just. Jones. Ask him if he will ask any questions upon this part. Which he did.

Sir T. Gasc. No, it is no great matter at all, for it is true; when it was I cannot tell, there was something I did seal to sir William Ingleby, and some money I had of him.

Then Mr. Hobart repeated his saying to Metcalfe, he would send 3,000*l.* to the priests in 1676.

Sir T. Gasc. How comes that? I deny that utterly.

Bolron. It is all true that I have said, by the oath that I have taken.

Sir T. Gasc. There is no such thing at all.

Mr. Hobart. He says it was returned by Mr. Phiswick.

Sir T. Gasc. Phiswick was a servant to me, and returned some money for me sometimes, but it was all for my children, my sons and my daughters, and my kinspeople, to whom I paid annuities; but it was a far greater sum of the whole than 3,000*l.* and for one great sum of 1,000*l.*, you know how it was disposed of.

Mr. Hobart. He says, that in the beginning of 1677, you said you had returned this 3,000*l.* to London, and if you had a thousand times as much, you would give it for so good cause.

Sir T. Gasc. I never said any such thing, never thought of any such thing in my life.

L. C. J. Now tell him of the meeting at Barmbow.

Mr. Hobart. He says, in the year 1677 there were several gentlemen met at your house at Barmbow.

L. C. J. Name them. [Which he did.]

Mr. Hobart. These were all altogether with you.

Sir T. Gasc. No such matter at all.

Mr. Hobart. And he said all these persons did discourse with you about establishing a nunnery at Dolebank, and another at Heworth, and another at Broughton.

Sir T. Gasc. Not one word of all this is true.

L. C. J. Tell him what he said concerning killing the king.

Mr. Hobart. He says that the nunnery was established at Dolebank, and such and such were nuns.

Sir T. Gasc. He may say what he will, but not one word of all this is true.

Just. Dolben. But you skip over the main thing, what the gentlemen resolved upon, at that meeting.

Mr. Hobart. He says, these gentlemen did resolve the business should go on for the killing of the king, and that they would venture their lives and estates for it.

Sir T. Gasc. I never heard of any such thing as killing the king. Sir, did I ever say any such thing?

Bolton. It was in your own dining-room, and in your own chamber.

Just. Pemberton. He did not say so, I think, about their meeting.

L. C. J. Yes, he says they all met at his house, and there they had discourse of killing the king. In what room was it?

Bolton. In the old dining-room.

Sir T. Gasc. I deny it utterly; there was no such thing: some persons might be at several times at my house, but no such meeting, nor words at all at one time or other.

Then Mr. Hobart told him of Mr. Gascoigne's and Mr. Middleton's licences to go to London, and intention to go to France.

Sir T. Gasc. It is very true, my son did go to London for that end.

Mr. Hobart. And so Mr. Middleton, upon pretence of receiving rent.

Sir T. Gasc. I cannot tell about Mr. Middleton.

Mr. Hobart. He says, your son would im-

mediately fly into France, and commit the design into other hands: and you said you approved of it: And this he heard you discourse very plainly.

Sir T. Gasc. But I plainly deny it all.

Mr. Hobart. He says you bid him go up (the 30th of May) to the gallery, to Mr. Rushton.

L. C. J. No, not to him, but when he was in the gallery, Rushton came to him.

Then Mr. Hobart repeated the discourse with Rushton about the Oath of Allegiance.

L. C. J. You need not tell him what Rushton said.

Just. Dolben. Yes, my Lord, it is convenient.

Bolton. For I told him our discourse about the Oath of Allegiance myself.

Then Hobart repeated sir Thomas's further discourse and proffer to him.

Sir T. Gasc. There is nothing of all this true: he might come there and talk with any body, for what I know, but I was not with him.

L. C. J. But ask him what he says to this, that he proffered him 1,000*l.* to kill the king. [Which he did.]

Sir T. Gasc. Where should you be paid it?

Bolton. I would not undertake the design.

Sir T. Gasc. Did you ever know I was master of 200*l.* together in my life?

Bolton. Yes.

L. C. J. Tell him he says he would not undertake it, and therefore it was in vain to appoint where.

Sir T. Gasc. I utterly deny it all, upon my life; that is even just like the rest, I never heard it before.

L. C. J. He puts it to you, whether ever you saw him have 200*l.* together?

Bolton. I have seen 500*l.* at a time in the house, and I have seen in Phisick's hand 700*l.* [Which was repeated to him.]

Sir T. Gasc. What Phisick might have of other men's monies I do not know, he never had so much money of mine.

Bolton. My Lord, sir T. Gascoigne, I believe had at that time at least 1,200*l.* a year of his own estate. [Which was repeated to him.]

Sir T. Gasc. I wish he would make it good.

Bolton. My Lord, it is true enough: I believe he hath settled some estate upon his son, about 600*l.* a year.

L. C. J. I can't tell what becomes of the papists estates, nor how the priests drain them, but there are men of very great estates among them, but they are greatly in debt.

Mr. Hobart. Will you ask Mr. Bolton any questions?

Just. Jones. You have not repeated to him one part of the evidence; that in September, 1678, he said to my lady Tempest, he would send 150*l.* to Dolebank, in hopes the blow would be given shortly. [Which was then repeated to him.]

Sir T. Gasc. I know no such thing at all; there is not one word of all this true.

Mr. Hobart. Will you ask him any questions, or no?

Sir T. Gasc. I know not what questions to ask, but where the money should be paid?

L. C. J. That can be no question, for the thing was never undertaken.

Att. Gen. Then pray, Mr. Mowbray, tell your knowledge.

Mr. Mowbray. My Lord, and you gentlemen of the jury, I came to sir T. Gascoigne's in the beginning of 1674.

L. C. J. Were you his servant?

Mr. Mowbray. Yes, my Lord, but never an hired servant.

L. C. J. In what quality did you serve him?

Mr. Mowbray. In his chamber, my Lord, and continued with sir Thomas until 1676, in which time I did observe Mr. Thomas Addison, a priest, Fincham, a priest, Stapleton, a priest, Killingbeck, a priest, and Thwing, the elder and the younger, several times to visit and confer with Mr. William Rushton, sir T. Gascoigne's confessor.

L. C. J. Were you a papist then?

Mr. Mowbray. Yes, I was.

L. C. J. Are you one now?

Mr. Mowbray. No.

L. C. J. Well go on then.

Mr. Mowbray. I being very diligent in attending Mr. Rushton at the altar, I became in great favour with him, and was permitted to be in the chamber when the priests were in private with him, and I heard them often talk and discourse of a design laid for setting the popish religion uppermost in England, and how like the same was to take effect in a short time.

L. C. J. Who did speak it?

Mr. Mowbray. The priests in private with Mr. Rushton: I speak now, my Lord, of the Plot in general; I come to sir T. Gascoigne anon.

L. C. J. When? In what year was this discourse?

Mr. Mowbray. In 1676.

L. C. J. Well, what said they?

Mr. Mowbray. Why they discoursed concerning the setting up the popish religion in England, and how like the same was to take effect, and succeed, in regard that most of the considerable papists in England had engaged to act for it; and if it could not be done by fair means, force must be used; and particularly declared, that London and York were to be fired.

L. C. J. In 1676?

Mr. Mowbray. Yes.

L. C. J. What? Would they fire it again?

Mr. Mowbray. And I heard them often say that the king in exile had promised them—

L. C. J. Did they say the city was to be fired a second time?

Mr. Mowbray. Yes, to further their intentions.

Serj. Maynard. It was effected in Southwark.

Mr. Mowbray. And they did also declare, That the king, when he was in his exile, had

promised the Jesuits beyond sea to establish their religion whenever he was restored; which they now despaired of, and therefore he was adjudged an heretic, and was to be killed.

L. C. J. Who did say this?

Mr. Mowbray. The Priests.

L. C. J. Who was the heretic?

Mr. Mowbray. The king. Also I did hear Mr. William Rushton tell Addison and the rest of the priests—

L. C. J. Do you know which of the priests said the king was to be killed?

Mr. Mowbray. It was Rushton: Rushton and Addison were together, and he did declare to Mr. Addison, that according to agreement, he had given the oath of secrecy and the Sacrament to sir T. Gascoigne, esq. Gascoigne his son, my lady Tempest his daughter, Mr. Stephen Tempest, and had communicated the whole design to them.

L. C. J. Were you by when he said this?

Mr. Mowbray. Yes, in his chamber.

L. C. J. How long after the discourse of the priests was this?

Mr. Mowbray. My lord, he told them he had done it according to agreement before; and they did approve of it, and had severally engaged to be active, faithful and secret, and would do to the utmost of their powers, as far as their estates would permit, to establish the Roman Catholic religion in England: and about Michaelmas, 1676, there was another meeting of these priests, and others, where they declared, That the king was an heretic, and that the pope had excommunicated him, and all other heretics in England, Scotland and Ireland, and that force was to be made use of.

Justice Dolben. When was that, Sir?

Mr. Mowbray. About Michaelmas, 1676.

Justice Jones. You were his servant then?

Mr. Mowbray. Yes, my lord: and then did Rushton produce a list of names of about 4 or 500, and he read them over, all of whom, he said, were engaged in the design; and he did read the names of sir T. Gascoigne, T. Gascoigne, esq. my lady Tempest, Mr. Vavasor, sir Francis Hungatt, sir J. Savile, the two Townleys, Mr. Sherborne, and others.

L. C. J. Did you see this list?

Mr. Mowbray. I saw several subscriptions to it, and amongst the rest I saw sir T. Gascoigne's own hand.

L. C. J. Do you know it?

Mr. Mowbray. Yes, very well.

L. C. J. And upon the oath you have taken, do you believe that was his hand to the list?

Mr. Mowbray. Yes, my lord, I do believe it was his hand.

L. C. J. Did you know any other hands? Do not you know his son's hand?

Mr. Mowbray. No, nor any but sir Tho. Gascoigne's.

L. C. J. It was in several hands, was it not?

Mr. Mowbray. Yes, it seemed to me to be so.

L. C. J. What did they subscribe to do?

Justice Pemberton. This was in 1677?

Mr. *Mowbray*. No, it was about Michaelmas, 1676.

L. C. J. What was it for?

Mr. *Mowbray*. The title of it was, as I remember, "A List of them that are engaged in the design of killing the king, and promoting the Catholic Religion."

L. C. J. Was that writ on the top?

Justice *Pemberton*. They were words, I suppose, to that effect.

Mr. *Mowbray*. Yes, it was to that effect, my lord.

L. C. J. Was it mentioned in the List for "killing the king?"

Mr. *Mowbray*. Yes: and then they declared also, that the pope had given commission to put on the design, and prosecute it as quick as they could; and that he had given a plenary indulgence of 10,000 years for all those that should act, either in person or estate, for killing the king, and setting up the Romish religion in England, besides a pardon and other gratifications. And so much as to the Plot in general. Now, my lord, I come to the particulars as to the prisoner at the bar, sir T. Gascoigne. About Michaelmas, 1676, much about that time, there was sir T. Gascoigne and his son, my lady Tempest, and Rushton the priest together; where I heard them hold several discourses of this design about killing the king, and firing the cities of London and York; and sir T. Gascoigne did declare and assure Mr. Rushton, that he would not swerve from what he had said, but would keep to the oath of secrecy he had given him, and that he would do to the uttermost of his power for the killing of the king, and the establishment of popery.

L. C. J. Were you in the room?

Mr. *Mowbray*. I stood close at the door, where I heard very well; the door was not quite shut.

L. C. J. They did not know you were there?

Mr. *Mowbray*. No.

L. C. J. They would not trust you with it, then?

Mr. *Mowbray*. They did not know I was there. And they did unanimously conclude, That it was a meritorious undertaking, and for the good of the church, and they would all venture their lives and estates in it.

L. C. J. Rushton was there, was he not?

Mr. *Mowbray*. Yes, Rushton was there; and Dr. Stapleton, a priest, coming from another door, and finding me at the door, went in and desired them to speak lower, for there was one at the door: whereupon my lady Tempest called me in, and ordered me to go below and entertain some strangers: so much for the particulars concerning sir T. Gascoigne.

Justice *Pemberton*. Was sir Miles Stapleton there at that time?

Mr. *Mowbray*. Yes, he was there.

L. C. J. Where?

Mr. *Mowbray*. In an upper room.

L. C. J. Who were by?

Mr. *Mowbray*. Mr. Gascoigne, and the priest, and my lady Tempest.

L. C. J. This is all you say?

Mr. *Mowbray*. Yes, so far as to the particulars of this matter.

Serj. *Maynard*. Have you any more to say?

Mr. *Mowbray*. No, no more but these particulars, unless some questions be asked.

Then Hobart began to repeat this evidence to sir T. Gascoigne, how he came to be his servant.

Sir T. *Gasc*. He came as a boy to me, without hiring.

Then Mr. Hobart repeated the priest's discourse at Rushton's.

Sir T. *Gasc*. I deny it all.

L. C. J. He was not present, this was discourse among themselves.

Then Hobart told him about the Oath of Secrecy and the Sacrament.

Sir T. *Gasc*. No, there is no such thing, there is not a word of it true.

L. C. J. Then tell him of the List. [Which was done.]

Sir T. *Gasc*. It is a most impudent lie.

Mr. *Hobart*. What say you to your hand being to that List?

Sir T. *Gasc*. Not one word of it.

Mr. *Hobart*. But he says it was your name to it.

Sir T. *Gasc*. He had a pair of spectacles on, sure, that could see any thing: was it a printed List, or a written one?

Mr. *Mowbray*. It was written, your name was put to it, with your own hand-writing. [Which was told him.]

Sir T. *Gasc*. He makes what he will.

Then Mr. Hobart repeated Rushton's declaring that he had given him the Sacrament of secrecy.

Sir T. *Gasc*. I will warrant you he hath gotten this oath of secrecy out of the news-books; for I never heard of it before: let me ask thee: didst thou ever hear of it before you came to London?

Mr. *Mowbray*. Yes, sir Thomas, I did.

Mr. *Hobart*. But will you ask him any question?

Sir T. *Gasc*. No; it is all false he speaks, not a word of truth comes out of his mouth.

Serj. *Maynard*. My lord, we will now go on to another piece of our evidence.

Sir T. *Gasc*. I must leave it to the jury to take notice of their conversations and mine.

Serj. *Maynard*. Whereas he says he was never owner of 200*l*. together, we will produce his own almanack under his own hand.

L. C. J. Do it, and we will shew it him, and see what he says to it.

Sir T. *Gasc*. Why did not he discover it before?

Mr. *Hobart*. If your lordship please, sir Thomas desires he may be asked, Why he did not discover it before?

Mr. *Mowbray*. Because the papists did

threaten me at such a rate, and I being a single person against them, durst not.

L. C. J. When did you first discover it?

Mr. Mowbray. It was about Michaelmas last: the papists did threaten me, that if I did discover it, they would take my life away.

L. C. J. When did you turn Protestant?

Mr. Mowbray. When the Plot broke out, then I took the oaths of allegiance and supremacy.

L. C. J. Why did not you discover it as soon as you turned Protestant?

Mr. Mowbray. My lord, I was not in a condition to make any friends, or come up to London upon such an account: besides, my lord, they did threaten me, and particularly after the Plot was come out, Addison did threaten me.

L. C. J. But this was a great while before the Plot broke out.

Justice Dolben. So long he continued a papist, and then he would not discover.

Mr. Mowbray. This Addison was often with me, and he flattered me, and made me continue a papist, lest I should discover it.

L. C. J. Where is he now?

Mr. Mowbray. He is fled.

L. C. J. What said Addison when you did turn Protestant?

Mr. Mowbray. He said if I did discover he would take away my life.

L. C. J. I wonder they did not give you the oath of secrecy.

Mr. Mowbray. Yes, my lord, I did receive it from Rushton's own hand.

L. C. J. When?

Mowbray. In 1676.

L. C. J. Who received it with you?

Mowbray. It was given to me after the communicants were gone from the chapel.

L. C. J. What was the oath?

Mowbray. He reserved the sacrament for me, and swore me by it, that I should be faithful and secret, and should not reveal any discourse I was privy to.

L. C. J. Reveal no discourse? What discourse did they mean?

Mowbray. Those discourses when the priests were in private with him.

Then sir T. Gascoigne's Almanack was produced.

Att. Gen. Who proves sir Thomas's hand? Is this sir T. Gascoigne's hand?

Bolton and Mowbray. Yes, it is his hand.

L. C. J. Shew it him himself. [Which was done.]

Mr. Hobart. Is that your hand?

Sir T. Gasc. Yes, I think I saw it at the council table; this is my writing, and I will justify every word that is written there.

Att. Gen. Read that one place.

Clerk. The 15th to Peter for 100*l.* to Corker.

Att. Gen. If your lordship please, I desire he may be asked what that 100*l.* was for.

Mr. Hobart. Look you here, sir, did you order 100*l.* to be paid to Corker?

Sir T. Gasc. It may be I did.

Mr. Hobart. What was it for?

Sir T. Gasc. For the portion of a child I had.

Mr. Hobart. What child was that?

Sir T. Gasc. I know not who it was, Mary Appleby, I think.

Att. Gen. Pray ask him how it came to Corker's hands? Why it was returned to Corker?

Sir T. Gasc. I know not that, because we did not know where she lived, she was beyond sea.

Mr. Hobart. Where is she?

Sir T. Gasc. She is at Paris.

Att. Gen. Here is another book of his that does make mention of 900*l.* to Mr. Corker, upon an agreement between them.

L. C. J. Ask him how much money he might return to Corker from time to time. [Which was done.]

Sir T. Gasc. My lord, I do not know, we have been several years returning of money.

L. C. J. Hath he returned 8 or 900*l.* in all?

Sir T. Gasc. No, I do not think so much.

Att. Gen. Pray ask him how much was Mrs. Appleby's portion?

Sir T. Gasc. Indeed I cannot certainly say; but as the rents came in I was to pay several sums to several persons; it was 100*l.* a year to that Mary Appleby, it may be 2,000*l.* in all from first to last, but I shall satisfy you about that.

Att. Gen. Will you satisfy us anon why 900*l.* was paid in one year?

Then the book was shewn to sir Thomas, who owned it to be his hand.

L. C. J. Read it.

Clerk. "Q. Of Mr. Corker, what bills, for how much, and to whom directed, he hath received of me since the 21st of July, 1677, to June 1678, vid. the book p. 45. and the great book fol. 54. where you may find P. for 900*l.* and agree in this accompt, Corker, the 7th of August 1678."

Att. Gen. First he makes a Quere how much he returned, and then, says he, the 7th of August I and Corker agreed.

L. C. J. Let him read it himself. Which he did.

Mr. Hobart. What say you to that, that you sent so much money to Corker?

Justice Pemberton. You must understand he is one of the priests, and Bolton swears, that he intended to send 2,000*l.* and by 300*l.* a-piece, he reckons up 900*l.*

Sir T. Gasc. It was a great many years and several times.

L. C. J. Tell him it was between July 1677 and June 1678.

Sir T. Gasc. That does not appear.

Att. Gen. Yes, it does, by the book.

Just. Dolben. Then how came you to return 900*l.* in one year to Corker?

Serj. Maynard. And never had 200*l.* he says together.

Att. Gen. Then here is another passage in this book, if it please your lordship to have it read.

Clerk. Take Heworth of an easy rent of the widow—and purchase the reversion of Craddock—and in the interim Dawson.

Just. Dolben. Ask him what he did mean by taking of Heworth?

Sir T. Gasc. I took no house there.

Just. Dolben. But did he agree to buy the reversion of it?

Sir T. Gasc. It was for my niece Thwing; she was born in the house, and was very desirous to be in the house.

Just. Dolben. Ay; but why did he take the lease of the widow, during her jointure, and why buy the reversion?

Sir T. Gasc. I know no reason but my affection to her.

Att. Gen. Ask him who he did intend should live in the house?

Sir T. Gasc. Nay I do not know what they intended, my niece Thwing.

Justice Dolben. Did you intend to buy it for yourself?

Sir T. Gasc. No, I lent her the money.

Just. Dolben. Did you intend it for her?

Sir T. Gasc. I might do with it what I would.

Att. Gen. Ask him if his niece Thwing was a single woman, and was to have the whole house to herself?

Sir T. Gasc. She had her brother with her.

Mr. Hobart. He says Mrs. Ellen Thwing was a nun, Mrs. Lassels was to be lady Abbess, Mrs. Beckwith was her assistant, and Mrs. Cornwallis and others were nuns.

L. C. J. Ask him if Mrs. Lassels was not to be Lady Abbess, and live there?

Sir T. Gasc. I know nothing of it.

Att. Gen. Ask him if there was not one Mrs. Benningfield to be there?

Sir T. Gasc. No.

Bolton. Yes, she was to be there.

Just. Jones. Why, do you know any thing of her?

Att. Gen. She is in York gaol.

Bolton. No, she is gone from thence. My lord, Ellen Thwing was a nun, and I was sent for from beyond sea to instruct all them that should be made nuns; and this Father Cornwallis was father confessor to the nuns. He is now in York gaol, taken with two women.

Just. Jones. Ask him what he meant by that writing in the almanack?

Sir T. Gasc. I did write things here for a memorandum to help and assist my niece, and the poor children of my brother; and so the widow that was sir Walter Vavasor's sister, was to sell the house, and one Craddock meant to sell all the lordship, and the children were desirous to keep the house, and so they bought the house and one close, and all the rest was sold; so I writ it only that they should have the assistance of sir Walter Vavasor to have the house.

Just. Dolben. Pray ask him what he means by the words, 'in the interim Dawson.'

Sir T. Gasc. Nay, what do I know?

L. C. J. Ask if Mrs. Thwing were not a nun?

Sir T. Gasc. They did desire, if they could not get that house, that they might have another house.

Just. Dolben. And all this for Mrs. Thwing? Ask him if she was not beyond sea, and kept in a nunnery.

Sir T. Gasc. Nay, I cannot tell what she was.

Att. Gen. Here is another note in this almanack, pray read it. It was first shewn to sir T. Gascoigne, who owned it to be his hand.

Clerk. "Mr. Harcourt, next house to the arch within Lincoln's-Inn-Fields, Mr. Parr's."

L. C. J. No question but he was acquainted with all the priests about the town, and had directions to write to them.

Just. Pemberton. He hath been priest-ridden by them, that is plain.

Recorder. Ask him what he means by the last mark there set under London?

Sir T. Gasc. I cannot tell what it is, it is a query.

Att. Gen. In the almanack there is a memorandum to acquaint Mr. Thwing with the whole design; what it was I cannot tell.

L. C. J. Ay, pray let us see that.

Att. Gen. This Thwing is a priest in Newgate at this time.

Clerk. "The 15th of April 1676. Memorand. Acquaint Mr. Thomas Thwing with the whole design."

L. C. J. Now shew him that.

Sir T. Gasc. Look you, what is it you would have?

Mr. Hobart. What design was that?

Sir T. Gasc. It was my providing monies for him and his sister, that they should tell how to purchase the house.

Att. Gen. What, a priest, and a nun?

Just. Dolben. They had vowed contrary to that.

Just. Pemberton. Ask him whether Thwing be not a priest?

Mr. Hobart. Is not this Thwing a priest? Thomas Thwing?

Sir T. Gasc. No, it was Ferdinando Thwing, that is now dead.

Att. Gen. No, but this is Thomas Thwing: Is he a priest?

Sir T. Gasc. I do not know. What have I to do?

L. C. J. Then consider how likely it was; he was to purchase an house for a priest and a nun, for some such business as is sworn.

Mr. Hobart. He says no, my lord.

L. C. J. What is the meaning of it, then, that he should name the whole design?

Mr. Hobart. He says, it was the brothers and sisters that lived next door to him.

L. C. J. Ay, but it is said, acquaint Thomas Thwing with the whole design.

Mr. Hobart. He might acquaint Thomas Thwing with such his intention.

Att. Gen. We will now shew your lordship a letter, taken among the papers of sir Thomas Gascoigne, wherein is this proviso, talking of the settlement, "In the formal settlement, let

this proviso be added, If England were converted, then to be disposed so and so."

L. C. J. Mr. Bolron, How came you by that paper?

Bolron. I took this paper in sir T. Gascoigne's chamber, with several others: I remember some had his hand to them, others had not, and some were signed Pracid, and some Cornwallis.

L. C. J. Is there any mark of his hand to that paper?

Att. Gen. Yes, there is a mark in this of sir Thomas's own hand, the word (Yes) in the margin.

Clerk. 'Dolebank, June 9th, 1678. Most honoured Sir, After most grateful acknowledgments of all your charitable favours, as to my own particular; I am also herewith to present most humble and heartiest thanks on behalf of your niece, and Mrs. Hastings here, who both would esteem it a great happiness to see you here, as also my lady, your honoured daughter, to whom we beseech our humble respects may be presented. I have sent the paper safely to good Mrs. Beddingfield, from whom shortly you will have religious acknowledgments. I told her that I supposed you would judge fitting to insert into the formal writing the proviso, viz. That if England be converted, then the whole 90*l.* per annum is to be applied here in Yorkshire, about or at Heworth, &c. The which doubtless, will be as acceptable unto her, and as much to God's glory as possibly can be imagined. Now, dearest Sir, let me not be too much troublesome, save only to wish you from his divine majesty, for whose everlasting glories greater praise and honour you do this most pious action, the happy enjoyment of that glory everlasting. I would lastly advise you in God's holy name, to complete the business by drawing the formal writing as soon as possible;

YES. { and without making any material alteration from what you have already signed, save only the proviso above written. I should be glad to know concerning the receipt hereof, and when sir Miles and your son are likely to attend you to finish the business: As also when Mr. Pierpoint shall be arrived. These good religious are very desirous with your approbation (and Mrs. Beddingfield at my coming from her wished the same) to try for a removal to Mr. Dawson's; the impediments here being essential, as the house incapable to receive more scholars, with many other inconveniencies also. Time permits no more, only we again express our earnest desires to see your honour here with my lady, as the greatest satisfaction we can desire: I remember you hinted to Mrs. Beddingfield not long since, that perhaps you might see her at Hammersmith; and how much easier you may come hither, we earnestly beseech you to take into consideration to the purpose. Most honoured Sir, your honour's most obliged faithful servant, Jo. PRACID.'

L. C. J. I think it is pretty plain there was a design of erecting a nunnery.

Serj. Maynard. If England is converted, then the whole 90*l.* a year to be employed in Yorkshire about a rotten house, which would be much for God's glory.

L. C. J. What other evidence have you?

Recorder. If your lordship please, we have another letter dated from York Castle, and the backside of the letter is indorsed by sir Tho. Gascoigne's own hand, the time when he received it.

L. C. J. When was it?

Recorder. The last May, he dates it from York Castle, where he was in prison, and therein gives sir Thomas an account of the opinion of the doctors of Sorbonne about the taking the oath of allegiance.

L. C. J. No doubt all of them do not approve of it.

Just. Dolben. As I believe this same Pracid was the occasion of so many gentlemen refusing the oath of allegiance; I convicted above forty of them in that country for not taking of it.

Serj. Maynard. 'Noscitur ex comite.' You see if this be the effect of it, what reason we have to rid ourselves of these priests: One that dares write such a letter; and it is found in sir Thomas's study.

Just. Pemberton. And sir Thomas's own hand on the back of it.

Serj. Maynard. My lord, under favour, I do take it, that the debauching of men in the point of conscience, that they may not take the oath of allegiance, is to set them loose from the government, and loose from the king, and make them ready to arm when they have opportunity.

Just. Pemberton. No doubt of it, brother.

L. C. J. All the Jesuits say they may not take it, but some of the Sorbonnists say they may.

Just. Pemberton. But now you see they are against it.

L. C. J. Some will, and some will not allow it.

Just. Jones. They take or leave oaths, as it is convenient for them.

Then the letter being shewn to Mr. Mowbray, and the indorsement acknowledged to be sir Thomas's hand, was read.

Clerk. 'York Castle, May the 24th. Honoured and ever dearest sir; Longer time having passed since your last writing, it is fit to inform you how God's holy providence disposes concerning us. All the out prisoners being called into the castle, (as you may have heard) Mrs. Hastings' room was needed, and so she went into Castlegate to reside at the former lodging of one Mrs. Wait, (who is now in the gaol) where she remains with Mrs. Wait's two children, and their maid-servant, teaching the children as formerly; also the Moor's niece goes daily thither; and Mrs. Hastings lives without charge as to diet and

lodging, as I formerly told you; she spends all her time well, God be praised, and comes every morning about seven o'clock to serve God at the castle: But I and two others are much abridged of that happiness by her room being left by her here. My liberty of going abroad is restrained with the rest, none being as yet permitted the least since these last were forced to come in. Madam — was here the other day, and seemed somewhat timorous about Mrs. Hasting's teaching: But most in the castle persuaded her that it was most commendable and most secure, and so she rests satisfied: Mrs. Cornwallis is recovered of her ague, God be blessed: She desires her dutiful respects may be always presented unto you, and intends herself to write to you. Mrs. Wood and her companion are well, but dare not as yet walk in their own garden. All our now prisoners are chearful, and each of us comforted, in hopes that God will make all catholics of one mind: For I have a letter from our Spr. [Mr. Record. That is superior] at London (who was the same day taken and carried to prison), wherein he declares, alledging authority, That the pretended oath of allegiance cannot be taken as it is worded; adding that three briefs have formerly been sent from the pope expressly prohibiting it; and in the third it is declared damnable to take it. And yesterday we had a letter communicated amongst us, sent by Mr. Middleton (now at Paris) to his friends here, containing the attestation of all the Sorbonne doctors against it; adding, that whosoever here in England give leave, they deceive people, and are contrary to the whole Catholic Church. There was also a meeting some years ago of all the superiors both secular and regular, wherein it was unanimously declared, that it could not be taken. Mr. Hutchinson (alias Berry) who has lately printed a pamphlet in defence of the oaths, has the other day declared himself protestant at St. Margaret's Westminster. And so I rest, Honoured sir, Your ever obliged, J. P.

Recorder. That is all, the other is private.

Att. Gen. If your lordship please, we shall now prove by some witnesses, that he hath returned great sums of money, because he said, he never had 200*l.* together; and for this we call Mr. Phiswick. (Who was sworn.) Come sir, were you a servant to sir T. Gascoigne?

Mr. Phiswick. Yes.

Att. Gen. For how long time?

Phiswick. For six years and upwards.

Att. Gen. In that six years time, what sums of money did you return to London?

Phiswick. It is abstracted in a note.

Att. Gen. Did you return all the sums in that note?

Phiswick. I refer myself to my almanack.

Att. Gen. Did you set down this account?

Phiswick. Yes, sir.

Att. Gen. Then thus, sir, pray what comes it to?

Phiswick. Those sums do come to 6,128*l.*

VOL. VII.

L. C. J. Whose money was that?

Phiswick. Part of it was sir Thomas's; part his son's, and part my lady Tempest's.

L. C. J. Can you tell how much in any one year you returned upon the account of sir Thomas?

Phiswick. Not unless I had my almanack.

L. C. J. It will be endless to look over the particulars.

Just. Pemberton. Can you make any estimate in six years how much you returned for sir Thomas himself?

Phiswick. No, not without my almanack, because I returned money for them all.

Att. Gen. My lady Tempest and Mr. Gascoigne, it hath been proved, were in all the discourses.

L. C. J. But that hath not any influence upon sir Thomas.

Phiswick. The esquire lived much in London.

Just. Dolben. What estate had he to live upon?

Phiswick. Betwixt 4 and 500*l.* a year.

Just. Pemberton. What estate had sir Thomas besides?

Mowbray. My lord, I believe it was 1,600*l.* a year, besides what Mr. Gascoigne had.

Just. Dolben. And what had my lady Tempest?

Phiswick. Three hundred pound a year.

Just. Dolben. But she lived in Yorkshire.

Phiswick. Yes.

Just. Dolben. So she needed little returns to London.

Just. Pemberton. But admit they had returned all, there was 300*l.* a year to be returned for sir Thomas.

Att. Gen. My lord, here is Mr. Mawson I think 2,500*l.* was received by him.

Phiswick. I paid in the country, at Leeds, money, that he paid here in town.

Att. Gen. Here is the 25*l.* paid to Harcourt, I would ask him whether it were the same Harcourt that was executed.

Just. Pemberton. I think not that material.

Att. Gen. My lord, if you please, we will shew you the examination taken before the council, that sir Thomas did own this Bolton had been his servant, and never unfaithful, but always took him to be, as he now found him, a fool.

Just. Dolben. If he object any thing, it will come in properly by way of reply.

Att. Gen. Then now we have done till we hear what the prisoner says to it.

L. C. J. Tell him they have done with their evidence against him; if he will have any witnesses examined, he must call them.

Hobart. The king's evidence have been all heard, and said as much as they can; the court asks you if you would call any witnesses, or say any thing for yourself? Have you any witnesses here?

Sir T. Gasc. Yes.

Hobart. Name them, Sir.

Justice Dolben. Ask what he will have done with them?

3 T

Justice Jones. Let him tell us to what purpose he will call them.

Sir T. Gasc. To examine them to the credit and demeanour of these men, and that there is no probability in their suggestions.

Hobart. Name them, Sir.

Sir T. Gasc. They are all in that note.

Mr. Babbington was first examined.

Justice Pemberton. Ask sir Thomas what he would have him asked.

Sir T. Gasc. Look you, sir, what do you know concerning the difference between Mr. Bolron and I?

L. C. J. Well, what say you to that question?

Babbington. My lord, I have not been employed in sir T. Gascoigne's business before the last winter.

Justice Dolben. What do you know then?

Babbington. About spring last sir T. Gascoigne was consulting with me about money Bolron owed him upon two bonds, and gave me directions to sue them. And likewise he was giving me directions to deliver declarations in ejectment for gaining the possession of his farm, because he did not pay his rent.

L. C. J. How much were the bonds for?

Babbington. I have them here, I think.

L. C. J. You need not look for them, you may tell us the sums.

Babbington. The one is for 28*l.*, the other 20*l.*, to the best of my remembrance. Mr. Bolron having notice of this, did desire he would accept of a conveyance of an house he had at Newcastle for satisfaction of his debt. Sir Thomas was unwilling to accept of it, but I did prevail with him to accept it, not in satisfaction, but as an additional security; and the deeds I have here that I drew for that end.

Justice Pemberton. What time was this?

Babbington. This was a little before last Trinity-term begun. I have taken a memorandum within a day or two, if your lordship will give me leave to look upon it.

Justice Dolben. Have you not had all this time to get your papers ready?

Babbington. My memory is very short, indeed. But now I see about the 3d or 4th of June, sir Thomas gave me orders to deliver declarations in ejectment.

Justice Dolben. When did he first bid you question him for monies upon the bonds?

Babbington. It was some time in May.

L. C. J. Did he tell you you must sue him?

Babbington. Yes.

L. C. J. What then did Bolron say?

Babbington. Bolron did then desire that sir Thomas would accept of security out of his house at Newcastle. Sir Thomas was very hard to be persuaded, but at length I did prevail with him, and I used this argument, that it was not to lend so much money upon that security, but his money was already out of his hands, and else desperate, and this was a further security, and that it would not lessen his other

security, and upon these persuasions he did let me draw a deed to that purpose.

L. C. J. Was this some time in May?

Babbington. This discourse was in May.

L. C. J. Are you sure of it?

Babbington. The directions that I had for drawing the deed was in June, but the discourse with sir Thomas was in May, and I do perfectly remember it by a circumstance which I shall tell your lordship. After the deeds were drawn (for drawing of which I had a letter under Bolron's own hand, and if occasion be, I have the letter here to produce), I came from York, having been there, and appointed a day for the sealing of them. I came to the house where Bolron lived, and sir Thomas met me, and there I produced the deeds, and he of himself was very ready and willing to the sealing of them, but his wife, who was joined in the deeds with him, would not by any means seal, unless sir Thomas would deliver up the bonds he had taken for the money, but sir Thomas did utterly refuse to deliver up the bonds.

L. C. J. What time in June was this?

Babbington. A little before Whitsuntide.

L. C. J. What time was that?

Babbington. That was the 14th of June, as I remember, that I delivered the declaration; and the day before, which was the 13th, to the best of my remembrance, I had this communication and discourse about sealing the writings, which the wife refused to join in; but sir Thomas would only take it as an additional security, refusing to deliver up the bonds, but he would suspend further prosecution, and Bolron did then desire no longer time than a month for payment of the money. But his wife, though she were urged to seal the writings, would not be persuaded, but utterly denied it. After we had spent a great deal of time there, Bolron comes to me, and desires me to come another time, and he would persuade his wife to seal the deed. Nay, said I, it is not fit for me to come up and down unless it be to some purpose, and your wife will seal. Will! nay, says he, I will force her to it. My answer was this, If you take these courses, Mr. Bolron, I must by no means be concerned in the matter; for your wife must pass a fine, and we must examine her secretly, and if she tells me she does it by your force, I will not pass it if you would give 1,000*l.* After this, about a fortnight, he sent for me to come and his wife would seal.

L. C. J. By the way, are you a protestant?

Babbington. Yes, I am, Sir.

L. C. J. And always was?

Babbington. Yes.

Att. Gen. Yes, he is an attorney at large, I know him very well.

Babbington. This was a fortnight or three weeks after that, the latter end of June he sent for me to his house, and that his wife would be contented to seal. And this he desired might be done on the Tuesday, which was Leeds market-day, and I could not go. The next day I called upon him at Shippen-Hall; he was

then within, and desired me to go up to Barmbow to sir Thomas Gascoigne's with him: He said he should go within two or three days to Newcastle, for he had a chapman that would lay down the money, and take the security of the house, and he desired he might have the liberty to go thither to treat about it. I told him I did believe it would be no hard matter to persuade sir Thomas to that, for he would be very glad of it. I went up with him to Barmbow, and as we went along, he asked me if sir Thomas did intend to sue him upon his bond? I told him I had directions so to do. He asked me likewise if he would turn him out of his farm? I told him, Yes, if he would not pay his rent; and the truth of it is, he did then deny he had received the declaration in ejectment: But my man afterwards made his affidavit of delivery, and had judgment upon it. Afterwards I went up to sir Thomas, and told him what Bolron desired, and he consented to it as readily as it could be asked; and in coming away he told Bolron, that in the management of his coal-pits he did neglect very much, and did go abroad, staying away two or three days together. To this Bolron made some excuse, and said it was for collecting his debts. Said sir Thomas, I know not what you are about, but if you do well for yourself, I am satisfied.

L. C. J. How long had he been from him, and left his service, then?

Babbington. I know not when he went, but this was in June last. After this we went back again, and in coming back he was very inquisitive to the same purpose; he was asking me—

L. C. J. You say he chid him, and told him he was not a good husband in his colliery.

Babbington. Yes; and as we came back he was inquisitive whether sir T. Gascoigne would sue him, and turn him out of his farm. I did then enter into the same expressions, and told him, if he did not pay, he must be sued.

L. C. J. You told me, sir Thomas had agreed to stay so long, when was this?

Babbington. My lord, this was after we had parted with sir Thomas.

L. C. J. After sir Thomas had promised him to stay so long time, then, said he, as you were coming home, do you think he will sue me, and turn me out of my farm?

Babbington. Yes, said I: Well, said he, then by God I will do that which I did not intend to do. What he meant by it I cannot tell; but this was a little before he came to London, which I judge to be the latter end of June; and this is all I have to say.

Then Obadiah Moor was called.

Just. Jones. Did you tell sir T. Gascoigne what he said, Then I will do what I never did intend to do?

Babbing. I did never tell him, my lord, for I looked upon it as an idle expression. And I will tell your lordship why; because this man that is now to be examined did tell me how that he was bound for him, and that Bolron, to encourage him to be bound, said, You need not

fear, for if sir Thomas sues me, I will inform against him for keeping priests in his house; and I did look upon it as an idle expression.

Mr. Moor. My lord, in September last was twelve-month, Mr. Bolron did desire me to be bound with him to sir T. Gascoigne. Said I, I told him, Mr. Bolron, I have some small acquaintance with you but I have no reason to be bound with you. Said he, Do not fear; there is my brother Baker and Stephen Thompson are to be bound as well as you. Said he, I will give you my counter security. That signifies nothing, said I. You need not fear any suits, said he; for if sir Thomas sues me, I will inform against him for keeping priests. Said I, When must this money be paid? Said he, At Candlemas next. So we went and were bound; the one bond was to be paid at Candlemas last, and the other in August. And after Candlemas he did not pay the money; and said I, Mr. Bolron, I do not like these bonds, you must make new bonds for my security. I was afraid of being sued, and I desired Mr. Babbington to bring a writ against him, which he did; and upon Holy-Thursaday I had two bailiffs ready to arrest him, but he could not be found; and I had two likewise the Saturday before at his pits. Presently after he came up to London, and made an information; and on the 8th of August last I met him in Ferry-Bridge, and he came along with me; said he, Mr. Moor, you and I have often discoursed of sir T. Gascoigne, you may do me good, if you do not, pray do me no harm. You have been often at his house. With that, I asked him if he was concerned in the plot? For, said I, you have been often telling me, and sworn it, and denied it utterly, that he was no more concerned than any body else. But I did but equivocate then, said he, for I was a papist, and if I had told 1,000 lies, or killed 20 protestants, our priest would have forgiven me for it. And so coming to Farnborn, two miles from Ferry-Bridge, he plucked out 10s., and said, I have no more money in my pocket but this, but pray be kind, and do me no harm, for you know I have denied it all along.

Just. Jones. Hath he done so?

Moor. Yes, several times.

L. C. J. How came you to discourse with him, and question him about it?

Moor. Because there was a general discourse in the country, that there were few papists but what were concerned, and guilty of the Plot.

L. C. J. When was that discourse?

Moor. The latter end of September was twelve-month, when the Plot was first discovered. And he said, sir Thomas was no more concerned than the child that was to be born.

L. C. J. Had you any discourse with him about May last?

Moor. No, my lord; in August, as I told you, I had.

L. C. J. When was the last time that he told you, sir Thomas had not an hand in the Plot?

Moor. I cannot certainly remember, but I think it was in February, when I told him I would sue the bond, or have better security. It was a small time after Candlemas.

Just. Jones. What are you, a protestant or a papist?

Moor. A protestant, bred and born so.

Just. Pemberton. He would have sworn it no doubt at that time, for he was under an oath of secrecy.

L. C. J. But you say August was the first time that he discoursed to you that sir Thomas was in the Plot?

Moor. Yes.

Then *Stephen Thompson* was called.

Just. Dolben. Well, what do you know of this business?

Thompson. My lord, if you will give me leave to speak, I know a great deal of the unkindness betwixt sir Thomas and Mr. Bolron. He came down to me, he was sir T. Gascoigne's steward of his colliery, and sir Thomas liked not of his accounts, and turned him forth. There was a great deal of money owing to sir Thomas, and he came to sir Thomas to agree about it, and he desired me to be bound with him to sir Thomas: said I, Mr. Bolron, how shall I be secured? Said he, there is a great deal of money, of which I never gave sir Thomas any account, I will gather it in, and secure all; and so sir T. Gascoigne knew nothing of it. So bonds for 60*l.* were entered into to pay 28*l.* at Candlemas. So, sir, when Candlemas came, and he did not pay the money, I went up to him and asked him what he would do about this money, what course he would take to satisfy? Oh! never fear, said he. Why said I, hath he any hand in the Plot? If he hath let us know it; for he had made a great deal of his goods away, and then I thought I should not be secured. Oh, said he, he is sinless of it.

L. C. J. Who did make away his goods?

Mr. Thompson. Bolron did.

L. C. J. When was this?

Mr. Thompson. Candlemas last. For then I thought sir Thomas might sue me for the money, and I would fain have known if sir Thomas had any hand in the Plot, and I pressed him much to tell me. Then it passed on, and having a writ out against me, I durst not stir out myself, but I did send my man to him to know what he did intend to do about it; he told my man, Brother tell thy master he need not fear at all. Why, said my man, do you know he hath any hand in the Plot?

Just. Dolben. That is but what your man said.

Just. Pemberton. Is your man here?

Mr. Thompson. No.

Just. Dolben. Therefore you must not urge that he said to you, it is no evidence.

Thompson. On Thursday after I went up to him myself, and got him to go up to sir Thomas; and so when he came to sir Thomas, he would give him no time but a fortnight to pay the money; Bolron desired but three weeks

time, and he would procure him his money; so away we came down. Said I, What do you intend to do in this case? Said he, If he do sue me, I will do him an ill turn; and soon after he went to London, and said, he would go to sell his land at Newcastle: and awhile after I went out to see if he were come again; and meeting him, it was when he was going to London again to carry on his design, said I, Robert Bolron, what do you say in this case? you now are going to leave the country, and how shall I be secured against sir Thomas? Do not question it, said he, for I am to receive on the king's account 80*l.*

L. C. J. Upon whose account?

Thompson. Upon the king's; concerning the taking sir T. Gascoigne.

Bolron. But I never had a farthing of it.

Thompson. But, said he, I will not take it, for another bids me 60*l.* and I know what Oates and Bedlow had, and I won't abate a farthing of that.

L. C. J. When was this?

Thompson. It was after he had taken him; and on Holy Thursday he did say, If he did sue him, he would do him an ill turn.

Then the Lord Chief Justice, being to sit at Nisi Prius at Guildhall, went off.

William Backhouse was next called.

Just. Jones. Let him ask Backhouse what he will.

Sir T. Gasc. I would ask him what threats he gave to his wife to swear against her conscience and promise of 500*l.* he should gain by it.

Backhouse. I served the warrant to carry the witness before 'squire Lowther and 'squire Tindall: I was charged the 7th of July last to help fetch the witnesses before the justices, and to take sir T. Gascoigne, I and two of my sons, and he opened the door his own self. When we had taken him, 'squire Lowther directed us to bring the witnesses before him, and we did so. When we came to Bolron's house, his wife was sick on bed, and I said that she must go before the Justice of Peace to swear against sir T. Gascoigne for High-Treason: she said she knew nothing against sir Thomas; but Bolron said she must go, or he would have her drawn at the cart's arse.

Then *Hamsworth* was called.

Justice Jones. What will he ask him?

Sir T. Gasc. I ask him about the threatening of his wife.

Hamsworth. May it please you, my lord, the same day that sir Tho. Gascoigne was taken Robert Bolron came to his wife, and told her she must go to 'squire Lowther to swear against sir T. Gascoigne: she fell a weeping, and would not go by no means; he threatened if she would not go, he would tie her to the horse's tail.

Just. Dolben. Did he tell her what she should swear?

Hamsworth. I did not hear him, only to swear against sir Thomas.

Just. Dolben. What she knew, was it?

Hamsworth. Yes; and she said, she did not know any thing of misdemeanour of sir T. Gascoigne touching his sacred majesty, or the church government.

Justice Jones. Art thou sure she said those words?

Mowbray. My lord, he is a papist.

Hamsworth. I am a Protestant.

Justice Pemberton. How long have you been a Protestant?

Hamsworth. I was born so.

Just. Jones. Well thou hast added a few fine words that I dare say she never said.

Just. Pemberton. Were you never a papist?

Hamsworth. Yes, I was.

Nicholas Shippon was called.

Mowbray. This man is a papist too.

Just. Dolben. Do you think he is not a witness, for all that?

Sir T. Gasc. What discourse he had May 30, the day after the race?

Just. Pemberton. Well ask him what you will: What do you say?

Shippon. Mr. Bolron was with me the 30th day of May.

Just. Dolben. What, May last?

Shippon. Yes, the day after Ascension-day: he came to my house about two o'clock in the afternoon, and staid at my house all that afternoon while an hour after sun-set before he went away; he came and brought a letter with him to carry to Newcastle, and it was sent away thither.

Just. Dolben. Are you sure it was the day after the Ascension-day? How if it should fall out another day?

Shippon. Yes, Ascension-day was the 29th of May; he came to me about two o'clock.

Serj. Maynard. Pray what reason had you to take notice of this?

Shippon. He came and brought a letter to me that was to go to Newcastle, and desired me that my little boy might carry it to a kinsman's house of mine; for he said, he was afraid of the bailiff, and did not care for stirring out; my wife brought him some meat and drink, and he said it was better than he had at home; and she said she was the more sorry things were no better with him.

Just. Dolben. But how came you to take notice that this fell out the 30th of May?

Shippon. The night before I met him coming from the race, which was the 29th of May, and he asked me if I saw any bailiffs waiting for him; and I said yes; and he said, it was well if he missed them; and he asked me, if I saw Bennet Johnson?

Just. Jones. How long was it you say he staid?

Shippon. He came about two o'clock, and staid till an hour and half after sun-set.

Serj. Maynard. What religion are you of, friend, let us know?

Just. Dolben. What say you to the truth of this, Bolron?

Bolron. My Lord, there is not a word of it true; for I was about two o'clock at sir Tho.

Gascoigne's; they were marking some sheep, and I was there most of the afternoon.

Just. Jones. Were you ever at his house at any other time to send any such letter?

Mr. Bolron. I never sent any such letter: Indeed that day I was a little of the afternoon at his house, but I staid there but half an hour; but I was most part of the afternoon at sir Tho. Gascoigne's seeing them mark sheep.

Then *Roger Gregson* was called.

Just. Jones. What do you say to him?

Sir T. Gasc. Let him speak his knowledge.

Serj. Maynard. I desire he may ask the question, for he only generally refers to them what they know.

Sir T. Gasc. What did he say to you about August last?

Gregson. My lord, I will tell you: We met about August last, Robert Bolron and I, about a week before Bartholomew-day: we had some discourse; he came from London a little before that, and I asked him how sir T. Gascoigne did.

Just. Dolben. Was he apprehended in August last?

Gregson. Yes, he was in the Tower. He said, well. I asked him how he would come off about the plot (as they call it)? said he, he may come off well enough, but it will cost him a great deal of money. I then did ask, how they came to fall out? and he said it was long of that rogue Addison, brother to the priest, who had called him to account, or else he never had done sir Thomas that injury; and I suppose that was the cause of it. And then we had some more discourse, and that discourse was this: he rides a little from me (he was on horseback) and came back again; said he, I can tell you, the king was at Windsor, and one of the privy-council made an attempt to stab the king, and the king made his escape, and now they will believe my informations the better.

Just. Pemberton. Go on.

Gregson. That is all I have to say.

Just. Jones. What are you, a Papist?

Gregson. No, I am no Papist, I deny it.

Serj. Maynard. Nor never was?

Gregson. Nor never was.

Then *James Barlow* was called.

Serj. Maynard. My lord, I conceive this man ought not to be heard, for he is under an accusation of the same crime; and we have had two orders of council to apprehend him.

Att. Gen. There was an order of council within this fortnight to send for him up in custody.

Just. Dolben. There is nothing upon record against him, and you may discredit his testimony, but you cannot refuse him; he is not to come upon his oath.

Mr. Sol. Gen. (Sir Francis Winnington.) Bolron swears too, that he was at the consultation.

Just. Dolben. Let us hear him what he says; we must leave it to the jury what to believe.

Serj. Maynard. They would question him about Mr. Bolron's cozening, which ought not to be.

Sol. Gen. This man hath sworn against him.

Mr. Hobart. Why did you not indict him, Sir?

Serj. Maynard. Sir, you ought not to prate here.

Just. Dolben. Come, I doubt you are a little too pragmatical.

Just. Jones. If you had any record of the indictment to shew against him, we would not examine him.

Mr. Hobart. Will you ask him any questions, sir?

Sir T. Gasc. You know, sir——

Serj. Maynard. That is not proper, he tells him what he knows.

Just. Pemberton. Look you, sir, we did not intend that you should come here to manage all as a counsel; it was said, he could not hear well, and so you were only to tell him what was said.

Sir Tho. Gasc. I would ask him what he does know concerning taking of money and stealing from me?

Just. Dolben. But that must not be asked. [Which Hobart told him.]

Sir Tho. Gasc. Then you must tell me what I must ask.

Just. Pemberton. Come, you have been pragmatical, sir, and made him a brief, and he cannot manage it without you.

Serj. Maynard. Did you write this brief? [Meaning a brief in Sir Tho. Gascoigne's hand.]

Mr. Hobart. No, an't please you, sir.

Then Mr. Ravenscroft offered to speak what this witness had told him.

Just. Dolben. Look you, Mr. Ravenscroft, if what he says tend any thing to his business, that sir T. Gascoigne comes to know of his stealing, and then turned him out of his service, it is material; but if you come to tell a story here of another man's knowledge, we cannot spend our time so.

Mr. Ravenscroft. It was not known but last night to me; and if you will not let me tell you what it is, how shall you know it?

Mrs. Ravenscroft. He is a chief witness for my grandfather, and I desire he may be heard, for he discovered it but last night to my husband.

Just. Dolben. If it tend any thing to this business, that sir Thomas turned him out of doors, and therefore this man bears him an ill will—

Just. Pemberton. We had as good hear Mr. Ravenscroft, however; but pray sir, make your story short.

Mr. Ravenscroft. He came to me and said these words; I have kept a secret a long while, in which I have done very ill—

Just. Pemberton. Then it does not tend at all to this affair; for you must not come to tell a story out of another man's mouth.

Just. Dolben. Pray sit still, sir, and be quiet.

Just. Jones. Indeed you must be satisfied.

Just. Pemberton. If you have any other witnesses, call them, and do not spend our time.

Just. Jones. For the jury must be told, that it is no evidence coming out of another man's mouth.

Just. Dolben. It is as if a man should come and say, I can say something to sir T. Gascoigne, when I know nothing but what another man told me.

Just. Jones. Ask sir Thomas if he would have this Barlow examined?—Sir T. Gasc. Yes.

Just. Pemberton. Then what questions will you ask him?

Sir T. Gasc. What conspiracy was had to take away a great deal of money from me; and how he concealed it, because he would not do him a mischief?

Just. Dolben. What is that to sir Thomas's life?

Mr. Ravenscroft. I cannot tell you by bare assertion, but if you will hear what I have to say, do. Last night, late at night, about nine o'clock, Barlow came to me; says he, Mr. Ravenscroft——

Just. Dolben. Come, do not tell us the preamble, but the story.

Mr. Ravenscroft. Said he, I have a thing that sticks upon my thoughts, which I doubt may endanger sir Thomas's life.

Just. Dolben. Well, was it about taking money?

Mr. Ravenscroft. Said he, If I am silent, I doubt it will cost sir Thomas his life. Then I asked him what it was? says he, Mr. Mowbray, who is a witness in this court, and I did just a little before his going away, combine, or rather he did seduce me——

Just. Pemberton. Was it about money?

Mr. Ravenscroft. Money is in the case.

Just. Dolben. He did conspire, what to do?

Mr. Ravenscroft. If you will hear me, I will tell you.

Just. Jones. Pray do it quickly then.

Mr. Ravenscroft. Did combine to rob sir Thomas of a great sum of money; and whereas I held my tongue, thinking not to spill his blood, I see now if I do not tell the truth, I shall make good his credit, and so endanger sir Thomas's life.

Just. Dolben. Well, I will ask you, or any man alive now, two men combine to rob sir Thomas, whether one man be a competent witness against the credit of the other witness? He makes himself a rogue by combining, and you have made him a knave by his own confession.

Mr. Ravenscroft. I may perhaps err in that word; he did not say combine, but the other seduced him.

Just. Dolben. You have told a story to no purpose.

Just. Pemberton. You think it a fine thing to be a catholic, and to appear brisk for them.

Mr. Ravenscroft. Who says I am a catholic?

Then George Dixon appeared.

Sir T. Gasc. What do you know of any conspiracy of these people against me?

Dixon. My lord, I was at William Batley's in August last at ten o'clock, and Mr. Bolron and Mr. Mowbray came in, and called for a flaggon of drink; and when it was brought, they fell into a discourse together concerning sir T. Gascoigne and my lady Tempest. Says Mr. Mowbray, I know nothing of sir Thomas but that he is a very honest man.

Serj. Maynard. He was not bound to tell you what he knew.

Just. Jones. When was this, in August last?

Dixon. Yes; but, said he, if I knew any thing against my lady Tempest, I would discover it, for I would hang her if I could. And they sat down at Mr. Batley's house to consult what they should do.

Just. Pemberton. Before you?

Dixon. Yes, I heard every word.

Just. Jones. And what did they say?

Dixon. They said they would meet at Mr. Bolron's house; and if they would complete their business, they should be very well gratified.

Just. Dolben. Against whom?

Dixon. Against my lady and sir Thomas.

Just. Dolben. But you say, Mowbray said he knew nothing against sir Thomas Gascoigne?

Dixon. No; he said he knew no hurt by them.

Just. Dolben. How came they to say they would contrive their business.

Mr. Mowbray. What man is that, Mr. Bolron?

Bolron. I know him not, nor ever held any such discourse.

Mr. Mowbray. Nor I.

Just. Jones. How far do you live off one from another?

Dixon. I live at Leeds, Mr. Mowbray knows me.

Mr. Mowbray. I do not know that ever I saw you.

Dixon. He hath drunk with me.

Mr. Mowbray. I know him not, nor where he dwells.

Just. Dolben. What trade are you of?

Dixon. A cloth dresser by trade, but I keep a public house.

Just. Dolben. This discourse was at Leeds, was it not?

Dixon. Yes.

Just. Dolben. They say both they do not know you, nay, they swear it. And it is very like you were but very little acquainted, would they let you hear them talk thus?

Dixon. We were as well acquainted as can be, but that he will deny it.

Att. Gen. Pray what religion are you of?

Dixon. A protestant.

Att. Gen. How long have you been so?

Dixon. All the days of my life.

Att. Gen. I cannot but wonder at the strangeness of your acquaintance.

Mr. Mowbray. My lord, I have not drunk at that place which is near the old church at Leeds, not this two years.

Then William Batley was called.

Batley. And if it like your honour, these two gentlemen, Mr. Bolron and Mr. Mowbray, came to my house, and called for a pot of drink.

Att. Gen. Do you not know this man neither?

Mr. Mowbray. Yes, I do, but I was never three times in his company in my life.

Batley. I filled them a flaggon of ale, and when I had done I left them. They began to discourse of the plot, and sir Thomas Gascoigne, and Mr. Bolron—

Just. Dolben. At your house; where is your house?

Batley. My house is near the old church at Leeds.

Just. Dolben. Is that the same place the other man speaks of?

Batley. Yes. Says Mr. Bolron to him, Thou knowest that sir T. Gascoigne hath been very severe against thee and me, and now here is an opportunity offered us to take a revenge upon sir T. Gascoigne. Mowbray replied again, As for sir Thomas, he is a very honest man, and I know no hurt by him; but as to my lady Tempest, if I knew any thing against her I would hang her, for I would discover it. But thou knowest, says Bolron, that sir Thomas sues and troubles me, and if I do not make somewhat out against him, he will ruin me, and it must be done by two witnesses. To which Mr. Mowbray answered again, How shall we bring this business about? If thou wilt but come to my house, said he, I will put thee in a way to contrive it, and we shall have a considerable reward. And Mowbray told him he would come to him such a day.

Justice Dolben. Was that man that went out last, with you all the time they spake?

Dixon. Yes.

Justice Dolben. He does not say half so much as you do.

Justice Pemberton. Were you in the room?

Batley. No, I was at the stairs head.

Justice Pemberton. What did you stand there for?

Batley. I hearing them discourse of sir Tho. Gascoigne, hearkened what they did say.

Justice Dolben. The other man said he was in the room with them; were you in the room?

Batley. I stood upon the stairs.

Justice Jones. Were you in their company at all that day?

Batley. Yes, my lord, I carried up a flaggon of ale.

Justice Jones. Was the door left open?

Batley. Yes.

Justice Dolben. Would any man talk in such a place as this, that all the world may hear them, when they are contriving to take away a man's life?

Justice Pemberton. You were in the same room, Dixon, were you not?

Dixon. They were at the Grice head, and we at the foot.

Justice Jones. But the other says he was at the top of the stairs, the head of the stairs.

Dixon. We were at the stairs-foot, and they were in the room.

Batley. The table they sat at joined just upon the head of the stairs.

Justice Jones. Did you hear them down to the stairs-foot?

Dixon. We did stand there to hear them discourse.

Justice Dolben. Could you see them where you were?

Dixon. Yes, as fair as I see you.

Justice Dolben. Could they see you?

Batley. No, they could not.

Dixon. Yes, if they had looked down.

Justice Dolben. Why then I ask you, Do you think, if you stood in so open a place to be seen, and they had seen you, can you imagine that they would talk so about taking away sir T. Gascoigne's life?

Batley. I do imagine they did not know I was there, nor believe any one heard or saw.

Justice Pemberton. Do you know how they came there?

Batley. They said they came out of Leeds, and said one Mr. Legat was to come that way, who they were to speak with.

Justice Jones. I ask you if you were in the room under them?

Batley. And if it like your lordship, I stood at the stairs-foot.

Justice Jones. Just now you said it was the stairs-head.

Justice Pemberton. Did you say any thing to them about this?

Batley. No; I did not open my lips to them about it, but I told it to a friend about three or four weeks after.

Justice Jones. To whom?

Batley. To a neighbour of mine: I suppose it was told Mr. Babbington.

Justice Dolben. What say you, Mr. Babbington? How came you to know of this?

Mr. Babbington. When the commissioners of Oyer and Terminer were sitting at Leeds, there was one came and told me, George Dixon could afford me something that would be very advantageous for the benefit of sir T. Gascoigne.

Justice Dolben. Who was that man?

Mr. Babbington. Bennet Johnson, or Francis Johnson.

Justice Dolben. Was that the man you spoke to?

Batley. No, I spoke it to a smith, one Richard Loftus.

Mr. Babbington. I will tell you another person I heard it from, that was Mr. Bailiff of Leeds.

Justice Pemberton. Well, was this the common discourse of Leeds?

Justice Dolben. He says so. Was it then presently?

Mr. Babbington. The bailiff did not tell me so suddenly.

Justice Dolben. Would it not have been to your purpose to have brought the bailiff here?

Mr. Babbington. It was after the commission of Oyer and Terminer that I had it from him, which was in October.

Mr. Bolron. In the time of August I was not at Leeds, I was in Northumberland searching for priests, and in the bishoprick of Durham, all but a little of the first of it.

Then Mrs. Jefferson was called.

Justice Pemberton. What do you ask her?

Sir T. Gasc. Pray be pleased to speak to the conspiracy and combination against me.

Justice Jones. Whose combination? Come, mistress, what do you know?

Jefferson. I asked Mr. Mowbray one time what he knew concerning sir T. Gascoigne? And he said he knew nothing, but sir Thomas was a very honest gentleman for what he knew, and the best friend he had.

Justice Jones. Is that all you know?

Jefferson. He thought he was wrongfully accused.

Justice Pemberton. When was this? Was this after the time he was accused by Bolron?

Jefferson. It may be it might be, I think it was in August.

Justice Jones. In August last?

Jefferson. Yes.

Justice Dolben. But you must needs know (it was the talk of the country) when sir T. Gascoigne was sent for up to town; was it after that time?

Jefferson. Yes, I think it was.

Justice Jones. Then you say, you heard Mowbray say that sir T. Gascoigne was an honest gentleman, and he could say nothing against him.

Jefferson. Yes, ask him else.

Then Matthias Higgringil was called.

Justice Dolben. Was he one at the meeting?

Bolron. He was at the sealing the collusive conveyance.

Justice Jones. This Higgringil is a Protestant, is he not?

Bolron. I know not, I think so.

Justice Dolben. Come, sir, what say you in this matter?

Higgringil. To whom?

Justice Dolben. What can you say to the business about sir T. Gascoigne?

Sir T. Gasc. Speak to the threatenings to take away my life.

Higgringil. I have nothing to say to Bolron; but Mowbray on the 25th of September last, being at an alehouse, Mr. Legat and he were together, consulting how to disgrace sir Thomas, and take away his life; and he calls me out to speak with me; now, said he, I shall match them, for they have done what they could to disgrace me.

Justice Jones. How did he mean that?

Higgringil. I suppose he had taken away some money and gold, and they spoke of it, and that was to disgrace him.

Justice Dolben. Was it charged upon him?

Higgringil. It was suspected always he had taken it away.

Justice Dolben. But was there any such thing talked of in the country?

Justice Jones. What did he say to you?

Higgringil. He said, they did what they could to disgrace him, and take away his life, and he would requite them.

Justice Pemberton. Who, they?

Higgringil. Sir T. Gascoigne and my lady Tempest.

Justice Pemberton. Why? Did sir Thomas indict him?

Higgringil. No; but the noise was about the country.

Justice Dolben. When was this? In September last?

Higgringil. Yes.

Justice Dolben. What profession are you of, Higgringil?

Higgringil. An husbandman; I graze, and I farm a farm.

Justice Dolben. You know this man, do you not, Mr. Mowbray?

Mr. Mowbray. Yes; sir Thomas employs him, he is a kind of collector to him.

Mr. Ravenscroft. He is no papist.

Then Francis Johnson appeared.

Justice Dolben. Well, come, what do you know?

Johnson. He hath sustained great losses by him.

Justice Dolben. He? Who?

Johnson. Sir Thomas Gascoigne.

Justice Dolben. By whom?

Johnson. By Mr. Bolron.

Justice Dolben. What loss hath he received?

Johnson. The very first month he entered, he wronged him of 3*l*.

Justice Jones. How do you know that?

Johnson. I cast up the accompt myself.

Justice Jones. But he kept him two years after that?

Johnson. Yes, he did.

Mr. Bolron. My lord, I lost 3*l*. the first three weeks, and sir Thomas forgave me it, I do not deny it.

Justice Dolben. Do you know of any malice between them, and that he said he would do him any mischief?

Johnson. No.

Then Mr. Pebles, Clerk of the Peace in the county of York, was called.

Sir T. Gasc. I would desire you to speak of the carriage of Mr. Bolron to you, sir, what you know.

Pebles. My lord, I was in York last assizes, and Mr. Bolron came to me into a room where I was with some gentlemen, and asked me how I did? and asked me if I did not know him? I told him I did not remember him; said he, I am the prosecutor against sir T. Gascoigne. So when he was sat down, after a little while he desired to discourse with me, and asked me, If a man was indicted as a traitor, whether it were fit to pay him money? I owe, said he, sir T. Gascoigne money, and I would know whether it be fit to pay it to him: said I, I think you may safely pay him his money before

VOL. VII.

he be convicted, but then it is the king's in my opinion. Nay, said Bolron, he is sure to be convicted: then said I, I think it not safe to pay it, therefore I leave that to your own discretion, whether you will or no. A little after he desired to have my opinion concerning the two judges that came out circuit, for I am mightily abused by them, said he, they will not at all give me audience, I came from the king and council, and they slight me, and will not hear me speak: said I, I believe if you will go to them, they will hear you. I went to speak with them, and they sent some of their servants out to know what I would say to them; but I have writ a letter to them to tell them my mind. But said I, I cannot believe that any one will presume to carry such a letter; but for that I will leave it to you. So I came away from him, and after he follows me out, and desires to speak with me again: said he, I have something against you concerning this business in hand, I can do you a prejudice if I will: said I, God bless me I know nothing of it, and I do not at all intend to court your favour, I have no mind at all to that: said he, I will not do it; and he spoke as if he had no desire to do it; I would not court him, but came away and left him: he followed me to the street again, and said, will you help to apprehend a traitor? Who is it, said I? It is a gentlewoman, said he, a woman greatly concerned in the plot; you may apprehend her in the street, and it is the best time. Now the street was full, and I thought it a little unseasonable; so he looked after me, but I never offered to go from him: said I, was she in the plot? Yes, said he, she was to be the first lady mayoress of York after the plot took effect, and the king was killed; but he did not lay hold upon her, so I parted with her. Then, said he, I can have no respect. Said I, I have nothing to do with you; I am clerk of the peace of the West-riding in this county, and am always ready to do my duty there; so away I went and left him. The next news I heard was, he had procured a warrant of the council against me; and he brings the warrant to a justice of peace, and that justice of peace told him there would be several justices of peace at Leeds within two or three days after, and then they would examine the business. I chanced to be in a room with some gentlemen, not knowing of the warrant that was out against me; and this gentleman that was the justice of peace called me into another room, and told me of this business: I admitted it, and told him I did know nothing of it, nor that I had disoblighed him, unless it was because I did not give him the compliment and ceremony of my hat, nor give him money; neither did I know what information he had procured that warrant upon. He told me Mr. Mowbray and Mr. Bolron were in town; so I desired him to send for the other justices into the room, where he acquainted them with the matter and said he, if you will we will examine it to night; so they sent notice to Mr. Mowbray and Mr. Bolron, that they

U

would examine the business that night at six o'clock, and they came; and he was asked what he had to say against me? He said I had taken money for keeping a man from taking the oath of allegiance, and they had witnesses to prove it—

Serj. Maynard. Must he be here admitted to make his own defence?

Justice Dolben. Brother, let him go on.

Pebles. The witness was called upon, and they asked him to that point, and he denied absolutely upon his oath that he gave me any money, and also swore he had taken the oath when it was tendered to him. Then my lord there was one Mr. Dunford an attorney was spoken of, as if he could prove something, but he was fourteen miles off, and they could not send for him, and so I begged they would appoint another time for hearing when he could be there; they appointed Monday following and ordered me to attend, and one of the justices of the peace undertook to give Dunford notice. Accordingly I came there, but there was no Mr. Bolron nor Mr. Mowbray; but I desired that Mr. Dunford might be examined upon his oath, and they did take his information in writing, and he swore he knew nothing of it, neither did he ever give me money upon such account.

Justice Dolben. You were not by when it was sworn?

Pebles. I saw the examination taken in writing.

Justice Pemberton. And you were discharged?

Pebles. Yes; for he could not make out any thing at all.

Just. Pemberton. It was well for you he could not make it out.

Pebles. They said they could prove it, and vouched these two persons, but both denied it upon their oaths.

Justice Dolben. Is that all you know?

Pebles. That is all I can say in particular, I have not a mind to speak against him in general, because he is the king's evidence.

Just. Dolben. You can say nothing of his repute?

Justice Pemberton. You were a stranger to him, you did not know him?

Sir T. Gasc. I desire he may speak what reputation he had among the justices.

Pebles. I have no mind to reflect on the king's evidence; and if I did, it would seem as if I should speak in malice; he hath done me wrong, but I never did him any.

Justice Jones. But what is his reputation generally?

Pebles. Truly it is not very good in the country.

Justice Jones. Among whom?

Pebles. The grand jury and the gentlemen of the country.

Justice Jones. Is it a common fame in the country?

Pebles. Most people discourse ill of him.

Justice Dolben. Did he say he did not speak with the judges?

Bolron. No, my lord, I did not.

Justice Dolben. You did speak with us; indeed you would have had us allowed you a guard for your safety, which we could not do.

Mr. Bolron. Whereas he says I gave in a wrong information, this same Hunt when he came before them confessed he gave him 40s, but he would not swear for what it was.

Serj. Maynard. It is nothing to the purpose one thing or other that he hath said.

Justice Dolben. It is altogether uncertain; nobody knows what to make of it.

Then *Hardwicke* was called.

Sir T. Gasc. Do you speak what threats Bolron hath used to his wife to swear against me.

Hardwicke. When the pursuivants came up to Barnbow, the chief constable ordered me to assist Mr. Bolron in execution of the warrant, and to carry the witnesses before a justice. We went to Robert Bolron's house to take the witnesses, and there was his wife, his brother, and his sister: We were to carry them before a justice, and they refused to go; his wife pretended to be sick and could not go, and they begged of us to excuse them.

Just. Dolben. Who do you call they?

Hardwicke. His wife, his brother and his sister: Bolron told them they must go, and William Backhouse and I ordered them by all means to go along with us; I suppose it was to testify what he had sworn.

Just. Jones. What were they to do, did he tell them?

Hardwicke. They were to go to tell what his testimony was above, as well as I understood the discourse.

Just. Dolben. We have had two persons to this purpose before. They say he would have his wife go, and she refused to go, and cried; but they do neither of them say he pressed her to speak any thing more than she knew, or against her knowledge.

Just. Pemberton. No, one of the witnesses said, he told her it was to speak her knowledge.

Then *William Clow* was examined.

Just. Dolben. Come, what say you?

Clow. The 22d of May last I had a writ against Bolron, and my man arrested him and brought him to my house.

Just. Dolben. At whose suit?

Clow. At the suit of one Higgringil that was servant to sir Thomas; and there I had him two days, and would not carry him to the gaol, for he begged of me I would not; but then I told him I would keep him no longer there, for he had no money for lodging and diet; but he begged so hard of me that I would but tarry till Higgringil came, and then he did not care what they did with him; for he would make sir Thomas pay Higgringil his debt that he owed him, or he would play him such a trick as he little dreamt of.

Just. Dolben. When was this?

Clow. The 21st or 22d of May last, or thereabouts.

Just. Dolben. May last?

Clow. Yes. And so Higgringil came over, and they did agree, and he gave him a lease of an house he lived in, and Higgringil took the charge of both the debts upon him.

Then Hobart stood up.

Sir T. Gasc. Speak whether he pretended he writ a letter to the duke of Monmouth from Leeds.

Hobart. My lord, I have nothing to say to that.

Just. Jones. What can you say then?

Hobart. All that I can say is to the sums of money returned to town.

Just. Dolben. He did not mention that.

Hobart. If you please to let me declare what I know about the returning of the money.

Just. Pemberton. Pray speak what you know of your own knowledge.

Hobart. For most part of it, I know of the payment of it, and to whom; 1,800*l.* there was paid to Mr. Trumbal about the purchase, it was paid at Mr. Mawson's: I was a witness to the deed, and to the receipt.

Att. Gen. That is some, but what to the rest?

Hobart. 200*l.* was paid to a client of mine, 80*l.* was paid to one widow Cawson that was upon bond.

Just. Dolben. How much was paid to Mr. Corker?

Hobart. Several sums, above 300*l.* paid to Corker in 6 years time.

Just. Pemberton. Nay, in 4 years time.

Hobart. This 300*l.* and 300*l.* before I drew the receipt for; and commonly he ordered me when Mr. Corker came for it, that I should have a receipt from Mrs. Mary Appleby; and it came back signed by her, to whom sir Thomas was guardian.

Just. Dolben. And was all this money paid to Corker upon the account of this Appleby?

Hobart. It was mentioned in the receipt.

Just. Dolben. How much was she to have by the year?

Hobart. 100*l.* by the year, or 2 sometimes.

Just. Dolben. How came she to have 900*l.* in 4 years?

Hobart. My lord, I will tell you; for that there was a great arrear upon a suit between sir Thomas and Mr. Appleby, this Mrs. Appleby's father; and upon the hearing of the cause, my lord keeper Bridgman was pleased to order, that this money should be paid to sir Thomas for the use of the daughters; 200*l.* a year, that is 100*l.* a piece; and there was an arrear for 3 or 4 years during the suit, about 2 or 300*l.* it was: I drew a receipt for it, and sir Thomas being pressed for the money by Mrs. Appleby, who went beyond sea, he sent to Corker to get the money returned to her.

Just. Dolben. Ay, but you dance about the bush: Was there an arrear of 500*l.*?

Hobart. For 3 or 4 years; and Mrs. Ravenscroft was one of the sisters; her part was paid when she was married, but this gentlewoman's was paid beyond sea?

Just. Dolben. Were there arrears from sir Thomas to the gentlewoman beyond sea?

Hobart. Yes.

Just. Dolben. Are you sure there was?

Hobart. Yes, sir Thomas told me so.

Just. Pemberton. Who was to pay this money?

Hobart. Mr. Appleby, by order of my lord keeper.

Just. Jones. Sir Thomas was guardian, was the estate in Yorkshire?

Hobart. It did arise out of rents there.

Then one Culliford was called.

Just. Dolben. What say you? What do you know of this matter?

Culliford. This gentleman lodged at such a time at my house; the 4th of June 1677, he was at my house 7 weeks, and he was gone 3 weeks and returned again; he was 3 weeks away.

Just. Jones. What gentleman was this?

Culliford. Mr. Mowbray.

Just. Dolben. What is that to the purpose?

Just. Jones. How do you apply that?

Hobart. Mr. Mowbray hath said he sent a letter to the duke of Monmouth.

Just. Dolben. There hath been no mention made of any such thing: Have you any more witnesses?

Hobart. No.

Just. Dolben. Then ask sir Thomas what he hath to say for himself.

Hobart. Have you any thing to say to the court for yourself?

Sir T. Gasc. No, I refer myself to the judgment of the court.

Then a Woman Witness appeared.

Sir T. Gasc. What do you know concerning Mowbray, whether he was suspected of stealing when he was at my house?

Witness. Yes, he was, my lord; he would have given me 5*l.* to have gone away, and he did intend to have clapped me in prison, and to have laid it all upon me.

Just. Dolben. How do you know that?

Witness. He told me so.

Mr. Mowbray. This is a common woman, and not to be believed.

Serj. Maynard. My lord, we will reply but one short thing in matter of evidence. Much of this that hath been given by the defendant hath been to take off the credit of the witnesses; and for Bolron, they would suggest that he hath been dishonest to sir Thomas; but when sir Thomas himself was examined to that point before the council, he said he found him honest, but only accounted him a fool.

Just. Dolben. That is proper for you to do now, brother.

Serj. Maynard. And sir Thomas being examined about Rushton, he said he did not know such an one, and then afterwards he did say he

knew one of that name. Here is sir John Nicholas, the clerk of the council. [Who was sworn.]

Att. Gen. Pray sir, do you know what sir T. Gascoigne said at the council-table.

Sir John Nicholas. He was asked whether he knew Bolron? He said, he knew him very well, he had been his servant till within this twelvemonth, or something more; but for his honesty, he had nothing to say to it, till of late that he had not behaved himself so well, in giving informations against him: But he did find him now, what he did always take him to be, a fool.

Just. Dolben. What did he say about Rushton?

Sir J. Nicholas. At first he did say, he did not know Rushton the priest; but after it was brought to his memory, he said he knew one of that name.

Att. Gen. It was taken down in the minutes; Sir John, look upon them.

Sir J. Nicholas. He denied at first that he knew Rushton the priest; and afterwards the next time he came to the council, he said he did deny it, because he was afraid of an old law against harbouring of priests.

Att. Gen. If your lordship please, we will now trouble you with a witness or two in answer to what Backhouse and Hardwicke have said as to Bolron's threatening of his wife. We will call the wife to give you an account of that.

Just. Dolben. They did not charge him, that they pressed her to swear falsely.

Just. Pemberton. That does not at all touch upon the witness.

Att. Gen. If the court be satisfied, we will trouble you with that no farther.

Just. Jones. I believe Backhouse did say, that this Bolron would have his wife go before the justice of peace; she said she knew nothing at all, yet he would have her go and testify her knowledge; and if she would not, he would have her dragged at the horse's tail.

Att. Gen. I think it is necessary to call a witness or two to that. First to call her herself. [Then Mrs. Bolron was sworn.]

Att. Gen. What did your husband threaten you to make you swear against sir T. Gascoigne?

Just. Dolben. Now you are upon your oath speak the truth.

Mrs. Bolron. No never in his life did he threaten me upon any such account.

Just. Dolben. Do you remember when the constable came down to have you go before squire Lowther?

Mrs. Bolron. Yes, my lord.

Just. Dolben. How chance you did not go with him?

Mrs. Bolron. I was unwilling to go then, because I could say little to the purpose.

Just. Dolben. Did he use any threats to you to make you swear against sir Thomas.

Mrs. Bolron. No my lord; but he would have me go, whether I said any thing or no.

Just. Dolben. Did he ever desire you to speak any thing you did not know?

Mrs. Bolron. No, my lord, never in his life.

Att. Gen. My lord, Mr. Bolron desires to have this woman, his grandmother, be asked whether he threatened his wife? [And she was sworn.]

Sol. Gen. She was by at that time.

Just. Dolben. Were you by at that time when the constable came to carry the witnesses before Mr. Lowther.

Mrs. Bolron Sen. Yes.

Just. Dolben. Hark you, did not you see the woman that went over there cry, and say she was unwilling to go?

Mrs. Bolron Sen. Her husband said she should go, though she said nothing.

Just. Dolben. But her husband did not press her to say any thing but what was truth?

Mrs. Bolron Sen. No, indeed did he not.

Just. Pemberton. And did not seem to stick before?

Att. Gen. What can you say to this honest man here, your son?

Just. Dolben. I will warrant she will say he is honest still.

Att. Gen. But here are a company of people would make him a dishonest man.

Mrs. Bolron Sen. Sir Thomas Gascoigne said he was as truthful a servant as ever he had in his life.

Just. Dolben. Did you hear him say so?

Mrs. Bolron Sen. I heard him say so in his own chamber.

Just. Dolben. When?

Mrs. Bolron Sen. After he was married: And besides, sir Thomas did say he would do any thing that he could for him, in relation he had been a true servant to him.

Just. Dolben. Call Mr. Phiswick again. (Who appeared.) Look ye, sir, you are a man that I see hath been trusted by all the family of the Gascoignes, and you know in what reputation he was.

Phiswick. Sir, while I was his fellow servant I knew no ill by him.

Just. Dolben. Was he accounted an honest man?

Phiswick. I can say nothing to the contrary.

Serj. Maynard. Then my lord, to conclude, I desire to speak a word. On the one side here is an ancient gentleman's life in question, and that or his death are to be the issue of this cause; on the other side, here is the discovery of a plot upon which all our lives, our religion, and the life of our king depend. It did require your patience, and you have yielded it. Where lies the question? If these witnesses that have been examined be believed, there is no question but he is highly guilty of the Plot. The witnesses tell you, when there was no talk of the plot, there was a preparation of a false and fraudulent conveyance to be drawn by advice of counsel; and why was this made? Lest he should forfeit his estate. This is proved in the beginning. You find next a meeting of the priests, and there what they did does not con-

cern this gentleman at the bar, till he took notice of it, and then joined in it, and approved of it, and did declare it was a worthy plot, a meritorious plot for the good of the church, and at last particularly he would give 1,000*l.* to Bolron to destroy the king and murder him. The other witness agrees with him. And what is said against all this? They have called and examined I think 19 or 20 witnesses, three touching the threatening of his wife, but that falls out to be nothing; two alehouse-keepers that stood at the bottom of the stairs, and overheard their discourse; but you have all heard how they have contradicted one another, they had not agreed well enough together on their story. All that the rest do is meant thus, and so far they make something of it, that there should be a debt due from this Bolron to this gentleman, and so it were some contrivance as if he would do it by way of revenge; it does fall out many times that men do quarrel, but this is a business of another nature. They say that he should threaten he would serve him a trick, or there were some such words; but under favour, the question is of the truth of his testimony; now it is not likely, that they knew what his testimony would be; and there is nothing against the other witness that concurs with him, but the fellows that were upon the stairs, that talk one of one part of the stairs, and the other of the other. The matter is clearly, Whether the witnesses be to be believed, or whether there be any thing sufficient offered to take off their testimony. You will be pleased to observe as to what was spoken about the money and the nunnery: We brought you a letter from the priest who was mentioned to be one of them at the meeting, Pracid, that writes and dates his letter from the place the witness speaks of, and there you will observe that in one of the letters it is expressed, If England be converted (there is the main of the Plot), for all I suppose goes to that purpose. Pray who thought of England's conversion at that time? What led them into that, but a consciousness of a design to convert England? My lord, another piece of a letter there is concerning the oath of allegiance, you have heard it read, and every body knows what the meaning of it is; it is the engine of the Jesuits, that if they can but draw men off from their fidelity to the king, whereof there is no testimony so great as the Oath of Allegiance, they need not use so much of equivocation; but that is an abominable thing, and not to be endured, to go take off the strength of that oath that hath been taken by men more honest than the rest, and not suffering the rest to take it at all: and it is a damnable thing that they should assert the king is an heretic, and the pope has deposed him, therefore it is meritorious to kill him: but you have heard the evidence fully, and it needs no aggravation.

Solicitor General. My lord, I think the evidence hath been already repeated by Mr. Serj. Maynard; and, my lord, I think there is nothing in this case, but only the credit of the

witnesses; for if they be to be believed, there is an evidence as full as can be. I know your lordship observes how it is introduced, how they are fortified in some circumstances, which sir Thomas did at first deny. They tell you, that he had a pious intent to found a nunnery, and did proceed so far as to make a settlement; this was denied by sir T. Gascoigne, but hath been verified; and made out by his own books and letters writ to him, which were found in his own custody. This did sir T. Gascoigne do with an expectation of a sudden change; for the letters do declare, that England was to be converted, as they called it, and therefore they had settled their matters in order, and they thought fit to insert that proviso in the settlement, that if England should be converted, then the money was to be disposed so and so. But your lordship likewise observes, and you, gentlemen of the jury, what other correspondence sir Thomas Gascoigne had with one Cornwallis or Pracid a priest. He receives a letter which shews you what the principles of all the Catholics are, how far they have proceeded to take away even the oath of allegiance, and the consequence of that how far it will go, when they think themselves obliged in conscience to cast off fidelity to their prince; and what mischiefs may ensue no man knows, but we may in part imagine. You have already had sufficient discovery to make out the use of this instilled principle, and that is the design to kill the king; for this you hear what the evidence say. Mr. Bolron, one of them, is sent to the priest to be instructed by him; and by him was chid for offering to go against their principles to take the oath, and told him he was damned for so doing. And presently after he was examined by sir T. Gascoigne upon some discourse with him what Rushton had said, who had moved him likewise to kill the king, as he says. Sir T. Gascoigne knew to what purpose he sent him thither, not only to renounce the oath of allegiance, but to carry on the design which he had in hand, and did introduce, by laying aside the oath, and tells him he must engage in the design to kill the king. He examines him what the other had spoke to him of, and he said he knew it was more than bare chiding of him for taking the oath of allegiance; and he told him for his better encouragement to go on, that if he would undertake, he should have 1,000*l.* And this is the sum of Bolron's evidence, as to sir T. Gascoigne. What then says Mowbray, the second witness? He was so faithful a servant, and so diligent, that he was employed by Rushton the confessor to attend him at the altar, and being in service immediate about him, and he being by that means so dear to him, waited upon him in his chamber, and was privy to all the consultations held there. And he gives you an account how long this plot hath been in agitation, for they had been discoursing a good while of it; and resolved it should be done, if not by fair means, by foul, and tells you plainly by killing the

king: and that he heard sir Thomas Gascoigne himself declare that it was a meritorious act to kill the king; and that as before he had the oath of secrecy given him by Rushton, so he did declare (which Mowbray standing at the door heard) that he would never swerve from the oath; but he would assist to the utmost of his power; and they that were with him said, they would stand by it with their lives and fortunes; and when my lady Tempest understood he was there, and was jealous of him, she bid him go down, and entertain the guests below stairs. So here is an evidence from two witnesses as full as can be in any case, that sir T. Gascoigne was privy to the conspiracy, and himself partaker of it, to kill the king. All that hath been said against them, is to vilify their reputation. As to Mowbray I hear but little, only there are two witnesses that touch him; and indeed if these witnesses were to be believed, they say a great deal; that is, they were in an alehouse together, and heard them conspire to take away the life of sir T. Gascoigne. Indeed Mowbray said, for sir T. Gascoigne, I know nothing but that he is a very honest gentleman, but for my lady Tempest, if I could hang her I would: that they should hear them contrive this together, and conspire how they should take away the lives of this gentleman, and the others. Indeed, if these men say true, it is a great matter to take off the credit of testimony; but you heard, gentlemen, how they did vary; for the one said, as I apprehended, at first he was in the room, afterwards he was below stairs. Ask the one, could you hear them? Yes. Could you see them? No; said the other, Yes. So that they were not well provided, as to that matter, nor had they consulted that point well, where they should agree to stand to overhear the matter. Now if that be likely, they should in the presence of two persons whom they did not know, and one of them they never saw, but in the court, declare and discourse of such a matter as this for the taking away the life of sir T. Gascoigne, then we have nothing to say to them, we must leave the credit of that to you; you will observe their variety in the story, and the improbability of the thing. But then for Mr. Bolron, the evidence against him is, that he is a very dishonest man, and that this is all out of malice to sir T. Gascoigne, because he would sue him upon his bonds. You observe how he does behave himself under that prosecution; all that he hath he is willing to part with for payment of his debt; he makes over his estate for satisfaction and security, and does as much as an honest man can do, all he had shall lie at stake: and as for sir T. Gascoigne himself, he hath no such opinion of him in point of dishonesty, for he declared he lived in his service without exception, and said before the council, he knew nothing of dishonesty by him, but only this information, and now he found him to be (what he always thought) a great fool. Now whether he thought him a fool for telling this story, or what else, you may explain the meaning of his

expression; but as for any thing of dishonesty, there is nothing against Mr. Bolron. He was in debt, it is true, but what he had lay at stake for the payment of it, and as far as it would go sir Thomas might take it; but that for malice he should come to swear against him, there is nothing clearly made out. One witness says, indeed, that he should say, Does sir T. Gascoigne intend to sue me, then I will do what I did not intend to do. Whether that be a speech of malice or no, or rather does confirm the truth of his evidence, is left to your consideration: It shews rather, there was something that he had in his power to do before any prosecution from sir T. Gascoigne, or any occasion of his malice against him; it hath not the necessary import of a malicious speech; that he did intend not to do such a thing, and because he was sued did do it; that therefore is only truth, and no malice. For the other matter that is said against him, that he should endeavour to suborn his wife to swear falsely, that was by no means fully proved, but rather that matter hath been sufficiently cleared; that though she said she knew nothing, yet he would have her go, though she said nothing; and you hear what the evidence hath been for Mr. Bolron, that he never did press her to swear falsely, nor threaten her if she would not, but only desired her to declare her knowledge if she knew any thing, the truth, and nothing but the truth. These are all the objections made against the credit of the witnesses; and I think if their credit do stand, you cannot have a clearer evidence to convict any one than hath been given you to day; but that we leave to you, and submit these objections, whether they have any weight in them, and whether they have not been fully answered.

Serj. *Maynard*. And our evidence is given in all upon oath, and their's is not.

Just. *Jones*. Gentlemen, you of the Jury: The prisoner at the bar stands indicted for high treason, and for high treason of the highest nature, for conspiring to take away the life of the king, and for endeavouring to change the religion, the Protestant religion into Popery; that is, contriving to extirpate the religion of Protestantism here, and introduce Popery instead of it; and certainly greater crimes than these no man can be accused of. There have been produced, on the behalf of the king, two witnesses, Mr. Bolron and Mr. Mowbray, both of them servants to sir T. Gascoigne the prisoner, and therefore might very possibly and probably enough be privy to all they have said and testified in this case. It does appear by them both, that sir T. Gascoigne was a very early man in the Plot, if they say true. We heard nothing of it till the long vacation, 1678; but it seems sir T. Gascoigne was a plotter and conspirator in the year 1675 or 1676. And that he might be able to do this somewhat more safely, he contrives how he might convey away his estate to prevent the forfeiture; and he makes an assurance of it to sir William Ingleby, colourably, as the witnesses swear, for

1,000*l*. And it does appear likewise, as to the introduction of the Popish religion here, they began to settle a nunnery; and it was fit to do so against England should be converted; first, in such a place; but if it happened England were converted, then to be removed to another place. There was at this nunnery appointed an abbess, an assistant and several nuns; and sir T. Gascoigne so well knew of this, that one of them that was appointed to be a nun, at the time of her taking horse, he said to her, 'There goes an old maid and a young nun.' And there are letters come from that very nunnery, and from the priest that was appointed to attend them as confessor, which have been read to you. And there is another preparation thought necessary to introduce this Plot, and that is, That all Papists might be seduced into an opinion that it was a dangerous thing to take the oath of allegiance, and that it was a damnable sin. For this purpose letters came from the doctors at Sorbonne, and they determine it to be so, lest any man of that religion should be so good a subject as to profess obedience to the king in temporals. Then the Plot goes on between sir Miles Stapleton, sir Francis Hungatt, sir Charles Vavasor, sir T. Gascoigne, Mr. Gascoigne, Middleton, Rushton, my lady Tempest, and a great company more; all met together and consulting in sir T. Gascoigne's house, in his great room, his old dining-room, to this purpose, not only to bring in their religion, but kill the king expressly (so says the witness). I think they had often talked of it before the witness in the priest's chamber; for he being then a Papist was privy to his master's design, and the rest of the confederates for killing the king, which was the only thing they desired to effect, as the best way to bring in their religion; and there was great reason to do it, they said too, for the king had not kept his word with them when he was in his exile; for they said, he had promised if he was restored to his kingdoms, he would restore the Popish religion; but now he was returned and had broke his promise and nothing more was to be done, the Pope having declared him an heretic, but to destroy him; and this was that which was agreed among them. The 30th of May last, after divers other consults had about it, the priest Rushton being at sir T. Gascoigne's house, Bolron is desired to go into the gallery, and there presently comes in Rushton, sir Thomas's priest; Bolron acquaints him that he had been at the sessions, and taken the oath of allegiance. As soon as ever he heard it, he cries out, He had committed a damnable sin, he must of necessity renounce it, and repent of it, and he could give him a pardon, for he had an extraordinary power, more authority than others, he could give him absolution if he did repent of it, and that no Catholic must by any means take the oath. A while after they had a discourse concerning killing the king; and the witness says indeed, he was not actually in the room, for he says he stood at the door, and heard all the discourse, till at last the lady

Tempest, one of the conspirators, taking notice of his being there, sent him down stairs.

Justice *Pemberton*. That is Mowbray.

Mr. *Mowbray*. I was called into the room, and then sent down.

Justice *Jones*. It is true, brother, that was Mowbray; but as to Bolron's discourse with Rushton; when sir T. Gascoigne, who was not in the house at the time Bolron was with Rushton, but had given a charge he should not go before he spoke with him: when he did come home and spoke with him, he takes upon him to go on with the discourse concerning the Plot, and he swears positively that he offered he would give him 1,000*l*. and this he swears he should have paid him in London. This is expressly the testimony of Bolron. Now what says Mowbray? He tells you (though that is but introduction to make his evidence more probable) that there was great resort of priests to the prisoner's house. He tells you of the discourse and consultation the priests had in the house, and that it was expressly and precisely for killing the king. He tells you, that he did stand at the door and heard it, as I observed before; and he tells you too, which hath not been observed, that at that time there was produced a list of four or five hundred persons that had engaged in the design of killing the king: he did see the list, he did see sir T. Gascoigne's hand, which he very well knew and was acquainted with, and which might very well be, being his servant. So that here is not only a discourse and agreement by paroll, that he should be in the conspiracy; but if you believe him, he says, that here is actually the hand of sir Thomas to the engagement to do the villainy; and truly they that were of that persuasion at that time, might easily be induced to it. For it was agreed amongst them, that they should have a plenary indulgence of 10,000 years, and it was a meritorious act; and though sir Thomas perhaps was not so ready to contribute in all things, yet hearing of the meritoriousness of the act, and withal that he should be canonized for a saint for this piece of piety, he certainly might readily consent to it. Mr. Mowbray indeed was asked, Why he did not discover it sooner? He tells you why, He was in fear of the Papists; he was threatened; and very like he might be possessed with fear, and so might a man of greater constancy till the business was discovered; and therefore he did not talk of it in the country, but came up here, where it was more safe to discover it, and hath been here ever since. Besides this testimony of these witnesses, gentlemen, there are some papers produced, some that mention money that hath been conveyed by sir T. Gascoigne, in confirmation of the testimony of Bolron the first witness, who does swear that he heard sir Thomas say he would send 3,000*l*. to the Jesuits to go on and prosecute this Plot; and afterwards he did hear him say, he had sent the 3,000*l*. that he had promised. Now it does appear by sir Thomas's almanack, that he had sent several sums; his receiver Phiswick

did speak of 6,000*l.* and he himself did give a touch towards it. Indeed Phiswick was a receiver for sir Thomas, and likewise for his son, and for the lady Tempest; but it is impossible, if they had sent all the money that ever they had; and considering too that the lady Tempest, as appears by the witnesses, lived in the country, that it could have amounted to near that sum of money; for she had 300*l.* a year, and the eldest son had but 400*l.* a year, how then could 6,000*l.* be returned for them in four years time? It is true, there is some answer given as to that 900*l.* by that witness Hobart, who says there was a suit, and 100*l.* a year decreed to be paid to Mrs. Appleby, sir Thomas's niece, for so many years, and he to take care of sending that to her: and though that was but 100*l.* a year, yet there was a decree, or some order, to pay the arrears with the other money, which made it up 900*l.*

The evidence for the king against the prisoner is but two witnesses, but they as positive and express as possibly can be. What then is said by the prisoner, or the witnesses, in his defence? There is one, that is Shippon, that gives some testimony against the very evidence, and the possibility of it to be true in one part of it: for Bolron, he tells you, that the 30th of May was the time when there was that consult held at sir T. Gascoigne's in the gallery with the priest, that he staid there till night, and that then sir Thomas talked with him, and made this proffer to him for the murder and destruction of the king. Here comes a witness, Shippon, and tells you, that that very 30th of May, Bolron was at his house at 2 o'clock, and staid an hour or two after sunset. If that were true that he were there all that time, it is not then true that he speaks of about sir T. Gascoigne; and it was impossible that he should be at the consult at that time when he says he was there, and afterwards spoke to sir T. Gascoigne. Now gentlemen, you have the king's witness upon his oath; he that testifies against him is barely upon his word, and he is a Papist too, for that he was asked, and he did confess himself so. I do not say that a Papist is no witness, a Papist is a witness, and he is a witness in a Papist cause, and for a Papist; but I must tell you, there is less credit to be given to a Papist in a cause of this nature, who can easily believe they may have indulgences and pardons enough for saving one from the gallows who is to be canonized for a Saint if the plot take effect. He hath only affirmed it who is a Papist, the other who is a Protestant swears what his evidence is.

Mr. Babbington, who was the first witness examined for the prisoner, he tells you there had been some debates and differences about rent and money that was owing by Bolron to the prisoner. He laboured and interceded often on his behalf; but at length not being able to prevail that he should not be sued, the witness swears, I will then do that which I did not intend to do. What he meant by it is doubtful, and it is an ambiguous speech; but to

interpret it that he would swear falsely to take away a man's life, and so commit both murder and perjury, is hard to infer and conclude from such doubtful words. There are some witnesses that tell you, that is, Moor and others, that Bolron did say and swear that sir T. Gascoigne was never concerned in the plot: that might very well be, especially if you take the time when he did say this, he was a Papist a great while after sir Thomas had engaged himself in the plot; and while he was so, it is not unlike he would venture an oath to save any of the same persuasion and religion he himself was of. But whatsoever he said, it was not judicially, he was not bound to discover to him he spoke to; he is now upon his oath, and you have heard what an express testimony he gives. As to what is said concerning his wife, that he should endeavour to persuade her, contrary to her knowledge, to give testimony against sir T. Gascoigne; and therefore he is not to be believed here upon his own oath, who would have his wife forswear herself to fortify him; there is no such thing; and it does appear by the evidence of those that are sworn, that he was earnest; and would have his wife go and testify her knowledge; but did not infuse or intimate any thing to her she should say, whether she did know it or no: And to assure you that, you have the oath of the woman herself, who hath been present here, and tells you the same thing. Dixon he comes and says, in August last, Mowbray said he knew nothing of the prisoner, which may be answered by his fear; but concerning the two witnesses that Mr. Solicitor did take notice, he did tell you, and it is plain, how very improbable it was two persons should speak in the presence of strangers, and tell them they were about to take away the life of another person, the one of the lady Tempest, who had done him a displeasure; the other of sir T. Gascoigne; but Mowbray at that time said he knew nothing of sir T. Gascoigne; but, gentlemen, besides what was said before, this is improbable any such thing should be, and you hear the witnesses, at least one of them, that he never knew one of the two.

Mr. Bolron. I knew neither of them.

Just. Jones. I should be very loth to omit any thing on the witnesses side, or that hath been materially testified against them on the prisoner's. I did not conceive the evidence given by Mr. Pebles to come to any thing at all. There was a discourse between Bolron and him at last assizes; after some talk Bolron tells him he had something to say to him, and what was it? Bolron was told that he had discharged some persons that he ought not to do, (excused them for money that did not take the oath of allegiance as they ought to have done) and it seems he did it here, and so far he went as to bring witnesses before the justices of peace to prove it. And although they did not give evidence against Mr. Pebles in that very particular, yet certainly he thought they would have said something; but that does not argue at all, that because he did accuse Mr. Pebles (as he

thought justly in that particular), therefore, that now he should falsely accuse sir Thomas in a matter that concerns his life so highly. There are some other things that were said by the witnesses that would tend towards the proving of some malice in the witnesses towards sir T. Gascoigne, and therefore they give in this evidence: One thing indeed was spoken by Hickeringil; that is, it was generally reported in the country, that Mowbray had taken away money from sir T. Gascoigne, and that Mowbray himself said, that as they had endeavoured to take away his fame and life, now he had found an opportunity to requite them. So saith the witness, but it is not very probable. I leave it with you upon the credit of the witnesses for the king, who have sworn it upon their oaths, and the others that go upon their words, and not their oaths, whether they have taken away the force and strength of the king's evidence, which is as full, express, and positive as can be by two witnesses.

Gentlemen, here is on the one side the life of an ancient gentleman before you: on the other side there is a conspiracy against the life of the king, who is the breath of our nostrils, and whom God long preserve. I know you being upon your oaths will take into your considerations both, and give a verdict according to the evidence you have heard.

Just. Dolben. I will tell you gentlemen, I cannot forbear saying one thing to you. There is some evidence that makes it a very improbable thing to be true what Mr. Bolron hath said; and yet Mr. Bolron having said it so positively, and Mowbray agreeing with it, probabilities must give way to positive proofs. I saw you did observe it when it was mentioned: and it is true; to me it seems improbable, that at the very same time that sir Tho. Gascoigne should sue him upon his bond, and take a course to turn him out of his house, that he should then be privy to such a conspiracy; it is improbable either that sir Thomas should offer him such a sum of money to kill the king, or if he had, that he should afterwards take that course at law against him. Now for that I say this to you, you are to give a verdict according to your evidence. They have such secret contrivances amongst themselves, (and he was a papist at that time) that where there are two men that positively tell you a thing that lies within their own knowledge, and swear it is true, it is scarce any improbability that should weigh against such an evidence.

Just. Pemberton. And, gentlemen, consider withal as to that; for truly my brother Dolben hath rightly minded you of that improbability, for it was no more: but then you must consider all the circumstances. It is indeed at the first blush improbable that a man would communicate so great a secret to another, if he did intend to sue him for money he owed him; but then it is likewise as improbable that he would provoke him by a suit if his life were in his hand; but consider the delivering of the lease of ejection, and those things were the 13th of June.

VOL. VII.

Mr. Babbington. But I had sued him before my lord.

Just. Dolben. The 2d of June, he says.

Mr. Babbington. I had direction long before I did it.

Just. Pemberton. They threatened him the 2d, but they did not do it. But look you, gentlemen, consider this; I do not doubt but sir T. Gascoigne was sure that this man durst not discover any thing of this, for they had given him the sacrament and an oath of secrecy, which they look upon as a tie, among themselves, as long as they continue in that religion, not upon any account whatsoever to be undone; and they have such confidence in it, that they will trust their lives and every thing in a man's hand when they have given that oath. Alas! how could these people have the confidence to plot one with another, as they do, when they know their lives are in the hands of any one of all the rest, but upon this account? Do but swear them unto secrecy, and give them the sacrament of the mass upon it, and then they think such a one is proof enough against any thing in the world for that is damnation if they break it, as their priests tell them; but I doubt not but sir Thomas thought he had them as fast as can be upon that lock. But as to sir Thomas's evidence of those two men at Leeds, this is after the accusation of sir Thomas that they spake of; and can any man alive believe that they would go and plot to contrive the death of these two persons in the face of two strangers, after he was accused? It is so strange an evidence, that no man alive can believe it to be truth. Look you, gentlemen, persons that go to contrive such things as these are, go in secret, and hope they should never be discovered, but by one of themselves. Who would contrive when two be by? and, if they say true, might see them as well as hear them? though they did contradict one another in their evidence; the one said he was above, the other said he was below; the one said he might see them, the other not. Look you, gentlemen, I do see that they do lay some stress upon this, that he was his debtor, for that they seem to prove by their witnesses; but you must lay no great stress upon that at all, for the money were not quit if sir Thomas were found guilty; the money is due to the king then he saves nothing by it, his money must be paid; let the prisoner be found Guilty, or not Guilty it is all one to him. You must consider this case, gentlemen: if you believe these men are perjured men, and have gone and contrived a malicious design against a man's life, then God forbid they should be believed anyway: but it is a positive evidence; and it is not an evidence barely of itself, but introduced by a great many circumstances that went before; they tell you the whole affair that it does seem they have been privy to the affairs of these Jesuits all along, and sir Tho. Gascoigne's house hath it seems abounded with them; he hath been very beneficial to that sort of people, mighty charitable, as they call it, in superstition; and you must consider, that nothing can seem strange to them that will be

3 X

ridden by priests; they put them upon all the immoralities and villainies that can be found out for the cause of religion, as they call it; nothing can seem strange that is testified against them. Therefore I must leave it to you, upon what you have heard, and upon their credit, whether you believe the witness or not.

Just. *Jones*. Ay, it is left upon their credit that are your own countrymen, better known to you than us.

Just. *Dolben*. Look you, sir Thomas Hodson, and the gentlemen of the jury, if you will come in again in any time we will stay in court, otherwise you must lie by it all night, for we can take no privy verdict in this case.

Just. *Pemberton*. Ay, we will stay and hear motions a little while.

Then the jury withdrew from the bar, and after half an hour returned again, and being called over gave their verdict thus:

Cl. of the Cr. Sir Thomas Gascoigne, hold up thy hand. Look upon the prisoner: How say you? Is he Guilty of the High-Treason whereof he stands indicted, or Not Guilty?

Foreman. Not Guilty.

Cl. of the Cr. Did he fly for it?

Foreman. Not that we know of.

Then the Verdict was recorded, and the Court rose.

265. The Trial of ELIZABETH CELLIER, at the King's-Bench, for High Treason: 32 CHARLES II. A. D. 1680.

AFTER the Jury were sworn, the clerk of the crown read the Indictment, viz:

The jurors of our lord the king do present, that Elizabeth Cellier, wife of Peter Cellier, late of the parish of St. Clement Danes in the county of Middlesex, gent. stands indicted, for that she as a false traitress against our most illustrious and excellent prince, king Charles 2. her natural lord, not having God before her eyes, not weighing the duty of her allegiance; but by the instigation of the devil moved and seduced, and the cordial love and true due natural obedience which all faithful subjects of our said lord the king towards him should bear, and of right are bound to bear, utterly withdrawing, and devising, and with all her might intending the peace and common tranquillity of this kingdom to disturb, and to bring and put our said lord the king to death and final destruction, and the true worship of God in this realm by the law established and used, to alter to the superstition of the church of Rome; to move and stir up war against the king in this kingdom, and to subvert the government of this realm; the 1st day of November, in the 31st year of the said king's reign, at the parish of St. Clement Dane aforesaid, when divers other false traitors unknown, traiterously did compass, imagine, and intend the killing, death and final destruction of our said lord the king, and to change, alter, and utterly to subvert the ancient government of this realm, and to depose, and wholly to deprive him the said king of his crown and government of this kingdom, and to extirpate the true religion within this realm established, and so fulfil and accomplish the same most wicked treasons and traiterous imaginations and purposes, the same Elizabeth Cellier, and other false traitors unknown, the said 1st day of November, in the 31st year aforesaid, with force and arms, &c. at the parish of St. Clement Danes aforesaid, advisedly, devilishly, maliciously, and traiterously assembled, united, and gathered themselves together, and then and there devilishly, advisedly, maliciously, cunningly, and traiter-

ously consulted and agreed to bring the said lord the king to death and final destruction, and to depose and deprive him of his crown and government, and so introduce and establish the Romish religion in this kingdom; and the sooner to fulfil and effect the same most wicked treasons and traiterous imaginations and purposes, the said Elizabeth Cellier, and other unknown traitors, then and there did contribute, pay and expend divers great sums of money to several unknown persons, to procure them traiterously to kill the said king, and introduce the Romish religion in this realm; and for the better concealing of the treasons aforesaid, the said Elizabeth Cellier then and there did pay and expend to divers other persons unknown, divers other sums of money, falsely to impose the said treasons upon some other persons unknown, against the duty of her allegiance, and against the peace of our lord the king, his crown and dignity, and against the form of the statute in such case made and provided, &c."

John Gadbury sworn.

L. C. J. (sir William Scroggs.) Mr. Gadbury, What do you know concerning this plot?

Gadbury. I know nothing of it, neither one way nor another.

L. C. J. Do you know of any contrivance of Mrs. Cellier's to kill the king?

Gadbury. No, rather the contrary.

L. C. J. Do you know of any attempts to change the government?

Gadbury. I will tell your lordship what I do know, if these gentlemen will not be too nimble for me. I have suffered a great deal of prejudice of late in relation to a plot, as if I had known of a plot; but God is my witness, I know of none, unless it were a plot to bring sir Robert Peyton over to the king's interest. That plot I had some concern in, and had some knowledge of Mrs. Cellier's concern in it; but she was so far from doing any thing against the king's interest, that she was willing to bring over with him the three gentlemen turned out

of commission when sir Robert was. So that how she could be acting for the king and against the king at the same time, I do not understand.

L. C. J. Mr. Gadbury, you are a man of learning, pray will you give your testimony of the things that you know in relation to Mrs. Cellier.

Gadbury. Mrs. Cellier was not committed upon my accusation; therefore, I hoped she might have been tried without my testimony. But when I was in danger of my life, when I lay in the Gate-house, Mrs. Cellier was reported to be a third witness against me, and then I raked up every trifle; but if I had thought it treason, I would have discovered it before. And as to that particular business concerning Mr. Smith, that Smith some time since did come to me, being my old acquaintance, to ask my advice in his affairs; and he had an affair of so great moment, that it was necessary to ask my advice in it, which was to go to the lords in the Tower. I asked him, what to do? Saith he, I can say enough against Dr. Oates to serve them, and take off his evidence, and asked me if he should do it. By no means, Mr. Smith, said I. Mrs. Cellier afterwards told me this Smith and one Phillips were willing to tell some stories or other of Mr. Oates and Mr. Bedloe, and I told her this very story; saith she, You being acquainted with him, it is possible you may do some good upon him; and saith she, I had as lieve as 10 guineas that you could do it.

L. C. J. That is, when that you advised Mr. Smith not to meddle with any thing against Dr. Oates.

Gadbury. She said, she did not care if she had been at the charge of 10 guineas, if he would be honest and discover the truth. And, my lord, she did say she had heard Mr. Dangerfield talk of a Nonconformists Plot that would off the Popish Plot.

L. C. J. Did she say that she had heard Dangerfield say there was a Nonconformists Plot, and that he was to have a commission among them? And did she say, that she had heard him say, that he hoped under the colour of that the Popish Plot would go on? Or did she say it of her own accord, that she hoped that would carry on the Popish Plot?

Gadbury. My lord, I cannot remember particulars.

L. C. J. There is a great deal of difference between Dangerfield's saying it, and her saying it.

Gadbury. I have no reason to spare her: But I am unwilling to speak any thing that is contrary to truth, though she hath done me the greatest injury in the world.

L. C. J. How come you to talk of a Nonconformists Plot.

Gadbury. It was only common discourse, as it was at coffee houses.

Just. Raymond. Had you heard of it before she spake of it, that you say it was common.

Gadbury. No, not till she spake of it.

L. C. J. Did Mrs. Cellier tell you of any popish priests or Jesuits coming hither from beyond the seas?

Gadbury. Upon the going over of one Clay, I think she did say she heard there were some more coming over.

L. C. J. What to do?

Gadbury. God knows what.

L. C. J. Did she speak of any Plot or contrivance to kill the king.

Gadbury. No, she was always an enemy to Plots, or else I would not have kept her company.

L. C. J. Did she say there were, or that she heard there were several priests and Jesuits coming over.

Gadbury. My lord, I think she said she heard it. And I have said several times to her, the popish Plotters would be destroyed: But she answered, she was afraid the nation would be destroyed first.

L. C. J. Did she say she was afraid of it, or that the nation would be destroyed first? I ask you once more, we must try people according to their oaths. By the oath you have taken, when you said you thought the popish Plotters would be destroyed, what answer did she make?

Gadbury. She said she was afraid the nation would be so; because she said, abundance of the best of the nation went into other nations, to weaken our nation, and spend their money, and therefore she was afraid the nation would be destroyed before them.

L. C. J. What discourse had you with Mrs. Cellier passing through Westminster-Abbey?

Gadbury. My lord, my memory hath been exceedingly bruised; but I remember, my lord as I was going through the Abbey in a rainy afternoon, she said this Abbey was formerly filled with Benedictine monks, or something to that purpose; and, saith she, what if it should be so again?

L. C. J. Are you a protestant or a papist?

Gadbury. A Protestant, my lord.

L. C. J. He talks as like a papist as can be, was it, what if it should be filled?

Gadbury. She said, what if it should be again?

L. C. J. What did you say to that?

Gadbury. I only smiled to hear a woman's discourse, my lord.

L. C. J. You make all the company laugh: What did she say of the Temple?

Gadbury. That the Temple had been filled with friers too.

L. C. J. And what then? Did she talk of filling it again?

Gadbury. Saith she, this place was filled with Benedictine monks, and the Temple with friers.

L. C. J. This may do well enough: But what did she say else concerning the Temple?

Gadbury. Nothing, my lord.

Serj. Maynard said something to him here, which was not heard, but,

Mr. Gadbury replied, Mr. Serjeant, I was none of the tribe of forty-one.

Here Mr. Gadbury was going to read in his Paper; but the court told him that would not be allowed; but he might refresh his memory with it.

L. C. J. Now tell me what she said; Mr. Gadbury keep it in your hand.

Gadbury. My lord, she put it by way of interrogation to feel my pulse.

L. C. J. What did she else?

Gadbury. There was nothing but transient discourse, my lord.

L. C. J. We must ask you what the truth is, and you have looked upon your paper. Now consider what you say, and consider that you are upon a solemn occasion, and are to testify it in the presence of God Almighty. I would have you tell plainly what it is, and neither to make it more, nor stifle it.

Gadbury. It was only transient discourse.

L. C. J. Say what it was. Was it, 'This place was once filled with Benedictine monks?'

Gadbury. She said that the Abbey had been filled with Benedictine monks, as the Temple had with friars.

Just. Jones. Look upon your paper.

L. C. J. You have looked upon the paper, and pray tell us what she said. Did she say she hoped to see this place filled with Benedictines?

Gadbury. My lord, I do not remember that word 'hope.'

L. C. J. How long have you been acquainted with Mrs. Cellier?

Gadbury. Ten or a dozen years.

L. C. J. Did she never ask you any questions about the life of the king?

Gadbury. My lord, when the king was very ill at Windsor, and all the people were fearful that he would die, she did move the question to me.

L. C. J. What question?

Gadbury. To know, whether I thought his majesty would live or die? But it was her fear that he would die.

L. C. J. Had you seen the king?

Gadbury. No, my lord.

L. C. J. How then did she expect you should give her an answer? From your art?

Gadbury. From my art, my lord!

L. C. J. Did she desire you to consult your art, how long the king would live?

Gadbury. She did as I said.

L. C. J. What did you say to that?

Gadbury. I would not tell her, because he was my sovereign.

L. C. J. What answer did you make?

Gadbury. I told her I would not meddle with it.

L. C. J. She would have had you consult your art or scheme, or whatever it is, to know whether the king would live or die?

Gadbury. It was something of that.

L. C. J. And you said you would not meddle nor make with it?

Gadbury. Yes, my lord.

L. C. J. She desired you to make a scheme?

Gadbury. No, my lord, I can't say she mentioned a scheme, but she asked the question.

Just. Raymond. What did she ask else?

Gadbury. Only that question.

L. C. J. How often do you believe she spake of it.

Gadbury. Never, my lord, but when he was ill. I will not baffle any thing that may conduce to the safety of the king and kingdom.

L. C. J. Indeed it is very conducive to the safety of the king and kingdom, if any go about to destroy him, and with evil intentions to ask how long he will live, and you ought in duty to God and your sovereign to declare it. Did she ever make any enquiries about the king's death more than what you have said?

Gadbury. No more, my lord; and then she was fearful he would die.

L. C. J. Did she say she would go to somebody else?

Gadbury. My lord, when she perceived me shy, she said, I see you are afraid of me, I will go to some other astrologer.

L. C. J. For what?

Gadbury. To satisfy her curiosity, as a great many do.

L. C. J. What curiosities did she ask besides this?

Gadbury. She would ask me sometimes about the condition of bodies, whether they would be prosperous in the world, and several other questions.

L. C. J. Were you nice in these curiosities?

Gadbury. Truly, my lord, I was shy of meddling with any thing, when I heard there was a talk about plots.

L. C. J. Was you nice to give her satisfaction according to her hopes concerning these things you call curiosities, questioning whether one should be well wed, how many children she should have, &c. Were you scrupulous in that?

Gadbury. I think I might not be nice in that very particular.

L. C. J. How came it, then, that she would go to another astrologer?

Gadbury. She asked me something about Mr. Dangerfield.

L. C. J. For what?

Gadbury. How to get him out of prison.

L. C. J. Pray how came she to say she would go to another astrologer? you were not shy to give her an answer to these questions?

Gadbury. It was something about Mr. Dangerfield, my lord, she asked me something about some deeds or papers which he was to search for, or seize, which concerned Mr. Bedlow.

L. C. J. She had better have gone to one of the clerks than to a conjurer for them. But why would she go to another astrologer?

Gadbury. Because I was shy.

L. C. J. You were not shy in these things about Bedlow. Did she not say, when you refused to meddle with the death of the king, that she would go to another astrologer?

Gadbury. Yes, my lord.

L. C. J. Did you any thing for her at that time?

Gadbury. My lord, I did calculate a scheme which since I found to be for Mr. Dangerfield, but I knew not for whom it was when I did it.

L. C. J. How! Can you apply one scheme to any body?

Gadbury. My lord, when Mrs. Cellier came to me, she gave me the time of a person's nativity, and I set the figure of the heavens to that sign, to know whether he were a person fit to be trusted, her husband being a French Merchant, to get in money.

L. C. J. For ought you know, Dangerfield was a woman, and the question was, whether Dangerfield was with child, and he happens to be a man. How did it fall out?

Gadbury. I have forgotten, my lord.

L. C. J. When did you know it was for Dangerfield?

Gadbury. My lord, never before I came before the king and council; neither did I know his name before, for he went by the name of Willoughby before.

L. C. J. What other discourse had you with her? Did she not at any time talk of Mr. Dugdale?

Gadbury. She did say she had heard of some people that were to discourse with Mr. Dugdale; she had heard such a thing, but I do not know whether she knew any thing of it, or no.

L. C. J. What discourse had you about that?

Gadbury. She told me there was a woman to go down to Windsor to beg Mr. Dugdale's pardon, for he was penitent for what he had said in some trial or other.

L. C. J. Call another witness.

*Att. Gen.** (Sir Creswel Levinz.) Mr. Dangerfield, pray give the court an account of what you know of Mrs. Cellier, the prisoner at the bar.

Mrs. Cellier. My lord, I except against that witness.

L. C. J. Why so? You must shew some reason, and then we will do you justice in God's name.

Mrs. Cellier. If I can prove he was whipped and transported, pilloried, perjured, &c. he is no witness. The last time I was upon my trial he threatened some of my witnesses, that if they would not swear as he would have them, he would kill them.

L. C. J. If you can shew any record whereby he is convicted of any thing that can by law take away his testimony, do it.

Mrs. Cellier. He has been indicted for burglary.

L. C. J. (To Mr. Dangerfield) Was you indicted for burglary?

Mr. Dangerfield. I will take it at their proof.

Ralph Briscoe, a witness for the defendant, sworn.

L. C. J. Do you know Dangerfield?

Briscoe. I remember one Thomas Dangerfield: I saw him burnt in the hand at the Old-Bailey.

L. C. J. Is this the same man?

Briscoe. I do believe it is the same man; but I have not seen him these several years.

L. C. J. Let every body have their right, in God's name. Have you any more?

Mrs. Cellier. My lord, I can prove him perjured.

L. C. J. Have you any records to shew he was perjured? Is he convicted?

Mrs. Cellier. No.

L. C. J. Then you cannot do it.

Mrs. Cellier. My lord, I can prove him guilty of forgery.

L. C. J. If you do not produce the record, you do nothing.

Mr. Recorder. (Sir George Jefferies.) That which she calls forgery, is not that which the law calls forgery; it is counterfeiting Guineas.

L. C. J. Can you shew he forged any deeds? If you can prove that he hath committed forgery, and be not convicted, it is no error.

L. C. J. Have you your pardon? she hath proved the conviction of felony, prove your pardon.

Mrs. Cellier. I have the copies of several records here in court, which will be sworn to.

To which Mr. Dangerfield pleaded his majesty's most gracious pardon. To which Mrs. Cellier replied, That she had a copy of the said pardon in court, but it did not extend to some of the crimes for which he stood convicted; and then produced a record, wherein it did appear he was outlawed upon a felony. Upon which the court commanded Mr. Dangerfield to go and fetch his pardon; in the interim examining several of the king's witnesses.

Thomas Williamson sworn.

L. C. J. Did you ever see Dangerfield and Mrs. Cellier in company?

Williamson. No, my lord, but I have been employed for Mrs. Cellier in several businesses of charity to get prisoners out. When Mr. Dangerfield was in Newgate, she employed me to get him out.

L. C. J. Why was she so kind to Dangerfield?

Williamson. My lord, I don't know that; but she bid me get him out whosoever staid behind.

Justice Raymond. Why should she get him out? Did she tell you what she would do with him when she had him out?

Williamson. No, my lord.

Recorder. We bring him for a witness, that she had a great kindness for Dangerfield.

Margaret Jenkins sworn.

L. C. J. What discourse have you heard between Dangerfield and Cellier?

Jenkins. I never saw them together but twice. It is a year since I came from them.

L. C. J. When you saw them at dinner or supper together, what other company was there?

Jenkins. Her husband was with her one time.

L. C. J. What did they talk about?

Jenkins. They were talking about the prisoners that were condemned.

L. C. J. Where was it, at her house?

Jenkins. No, at my lady Powis's house.

L. C. J. How came you there?

Jenkins. I carried notes backwards and forwards.

L. C. J. Did you never hear no discourse about the Plot?—*Jenkins.* No.

Susan Edwards sworn.

Recorder. What intimacy have you known between Dangerfield and Mrs. Cellier?

L. C. J. Did you ever see them together?

Edwards. Yes, very often, my lord. She said, That the Popish Plot would turn to a Presbyterian Plot.

L. C. J. Who did she say that to? To Dangerfield?

Edwards. No, my lord; but I have heard him say those words, and that he would make it his interest it should be so.

L. C. J. What did you say to him, when he said he must turn rogue and discover all their Plots?

Edwards. I said, he would be no greater rogue than he was before.

L. C. J. You were pretty nimble with him.

Edwards. He thought he should be hanged.

L. C. J. For what?

Edwards. If he did not turn rogue he thought he should be hanged.

Edwards to Mrs. Cellier. You were very often together in your chamber.

Mrs. Cellier. Who gave you your clothes?

Edwards. Her husband was gone to church one morning, and he was with her in her chamber.

L. C. J. I can't see why you should prove this matter too far.

Recorder. Susan is a civil young woman.

Edwards. She said she would do my business for me, and I go in danger of my life.

Bennet Dowdal sworn.

L. C. J. What do you know of any intimacy between Dangerfield and Mrs. Cellier?

Dowdal. I have seen them together.

L. C. J. What did they talk about?

Dowdal. Mrs. Cellier proposed a match between Mrs. Mary Ayrey and I, and they used to talk of that when I was with them.

L. C. J. Did they talk of the Plot at any time?

Dowdal. No.

L. C. J. Did you ever hear them talk of the king?—*Dowdal.* No.

L. C. J. Have you any more?

Recorder. Not till Mr. Dangerfield comes.

L. C. J. to Mrs. Cellier. Have you any Record to shew he was put in the pillory?

Mrs. Cellier. Yes, my lord.

[Upon which the copy of a Record from Salisbury was read, of his standing on the pillory for uttering counterfeit guineas: As also a copy of a Record of an Outlawry for Felony.]

L. C. J. What say you to this outlawry?

Recorder. It is not the same person.

L. C. J. We ought to be very careful in these concerns, else we may do a work this day may make all the kingdom rue it. It is a sad thing that people of a vicious profligate life, both before they came to Newgate, and all along in their life-time, should be suffered to be witnesses to take away the life of a woman. I question whether he will come again or no, he hath been gone a great while. Such are fit to be employed to find out, but hard to be believed when they find out.

L. C. J. Captain Richardson, is this the man that broke Chelmsford gaol?

Capt. Richardson. My lord, I can say nothing to that, but he was brought by an Habeas Corpus from thence to me.

L. C. J. Was he burnt in the hand for felony?

Capt. Richardson. Yes, my lord, I believe he was.

L. C. J. He made me believe as though he would fly, I believe he is. We will not hoodwink ourselves against such a fellow as this, that is guilty of so notorious crimes. A man of modesty, after he hath been in the pillory, would not look a man in the face. It appears that after he hath been burnt in the hand, he hath been outlawed for felony, and so it doth appear by Record.

[After about half an hour's stay, Mr. Dangerfield returned and brought his Pardon; which was read, and the word Felony omitted; and instead of 'Utlagaria qualiacunque pro felonis quibuscunque,' there was only inserted, 'Omnia maleficia et utlagaria qualiacunque;' which omission had made the Pardon defective, it being my Lord Chief Justice's opinion that the word 'Utlagaria' did only reach to Outlawries between party and party; by which his Evidence was wholly laid aside.*]

* In the second volume of Mr. Hargrave's Juridical Arguments and Collections, p. 221, is a very elaborate and learned argument on the effect of the king's pardon of perjury; in which the law respecting the king's power or prerogative of pardoning, is investigated with very great ability. Of the Case before us, Mr. Hargrave writes thus:

"Another authority is the opinion of lord keeper North, whilst Chief Justice of the Common Pleas, or rather of him and the other judges present. It appears in the trial of Mr. Nicholas Reading [*ante* p. 259, of this volume.] The trial was before Commissioners of Oyer and Terminer in April 1679. It was one of the trials on account of the Popish Plot, as it was stiled. Mr. Reading was indicted for corruptly endeavouring to persuade Wm. Bedlow, so notorious as one of the principal witnesses in that mysterious and unintelligible business, not to give evidence against lord Stafford and other Roman Catholics. After Bedlow's being for some time under examination, Mr. Read-

L. C. J. to Mr. Dangerfield. Such fellows as you are, sirrah, shall know we are not afraid of you. He produces us here a Pardon by the name of Thomas Dangerfield of Waltham, and says, his father and kinsman are both of that name and place. Will you have him sworn, whether his father or cousin Thomas were ever convicted of felony? It is notorious enough what a fellow this is, he was in Chelmsford gaol. I will shake all such fellows before I have done with them. Have you any more to say? are there any Waltham men here?

Dangerfield My lord, this is enough to discourage a man from ever entering into an honest principle.

L. C. J. What? Do you with all mischief that hell hath in you, think to brave it in a court of justice? I wonder at your impudence, that you dare look a court of justice in the face, after having been made appear so notorious a villain.

ing, to disqualify Bedlow from further testimony, asked him, whether he had not laid in provisions of fire to burn the city of Westminster. This question was objected to, because it was making Bedlow the accuser of himself. It was also objected to, because he had the king's pardon. To this latter objection, Mr. Reading answered, that though the king's pardon remitted the punishment, it did not hinder objecting to invalidate his testimony: and that, notwithstanding the pardon, he was not a lawful witness. But Mr. Reading was informed by lord North, that there was this dilemma against the question. If Bedlow had not a pardon he was in danger of death from answering the question. If he had a pardon, it took away as well all calumny, as liableness to punishment, and so set him right against all. Accordingly Bedlow was held to be a lawful witness at all events; and his examination proceeded.

"The next authority I find is the opinion of the King's-bench, on the trial of Mrs. Cellier for high treason at the bar of that court in Trin. Term, 1680. Mrs. Cellier was one of those accused as a party to the Popish Plot in the latter stage of the disgraceful prosecutions on that account. Dangerfield, a man of the most infamous character, was adduced as a witness to prove the charge. But it was objected against his being received as witness, that he had been several times convicted of cheating, and had been set upon the pillory, and had been whipped: and when he would have produced a pardon of those offences, Mrs. Cellier produced against him a conviction of felony, upon which he had been burnt in the hand, and an outlawry for another felony; and both the conviction and the outlawry were out of the pardon; and his testimony was set aside. This is the account in sir Thomas Raymond's Reports, 369: and the court's refusal of Dangerfield as a witness appears also in the trial printed in the State Trials. But sir Thomas Raymond, who was a judge of the

Justice Jones. Indeed, if he be the same man, he is not fit for a witness.

L. C. J. And that he is the same man is very notorious. Come, Mrs. Cellier, what have you more to say?

Mrs. Cellier. Enough, my lord.

L. C. J. You have said enough already. Come, gentlemen of the jury, this is a plain case; here is but one witness in a case of treason, and that not direct; therefore lay your heads together.

[Which being done, they returned her Not Guilty: Upon which the Clerk of the Crown bid her down on her knees; which she did, and cried, God bless the king and the duke of York.*]

L. C. J. Where is Dangerfield? Is he gone? Call him.

Who being come, the Court asked if he had bail for his good behaviour?

King's-bench at the time, adds what is not noticed in the printed trial, namely, that it was debated, whether, in case of conviction of a felony, a pardon would restore the person to be a good witness: and that Lord Chief Justice Scroggs and himself were of opinion against the pardon's restoring the credit. However, sir Thomas adds, that the judges Jones and Dolben were contra: and that, on considering lord Hobart's Report of the before-mentioned Case of Cuddington and Wilkins, he sir Thomas Raymond came over to their opinion. What also very much detracts from the weight of Scroggs's opinion is, that, though in the early trials for the Popish Plot he acted like a zealot in the cause of the prosecutions; yet having afterwards discovered the aversion of the king and courtiers to the prosecutions, he became a convert to their side of the question; and in the latter trials, one of which was that of Mrs. Cellier, he was as bitter and outrageous against the crown witnesses, as he had before been against the prisoners. Of such a judge the opinions deserve little attention. Whoever also reads the Trial of Colman in the State Trials, and the Trial of Mrs. Cellier in the same work, will, I presume, sufficiently see the justice of this censure; and will easily give credit to the severe character Mr. Roger North in his Examen, notwithstanding all his strong prejudices for the king and court, exhibits of Scroggs on the same account; and will not be surprized, that Scroggs's gross behaviour on the Trials for the Popish Plot should form one of the articles for which he was impeached by the Commons in January 1680-1."

This Case of Cellier is considered in other parts of Mr. Hargrave's learned argument. See p. 263, 268, of the volume above referred to. Some account of Scroggs will be found in a Note to the Proceedings against the latter in this same year, 1680, *infra*.

* See her Trial for a Libel in September following.

Dangerfield. No, my lord, but with the leave of the Court I will fetch some.

L. C. J. Let a tipstaff go with him, and return before the Court rises.

Dangerfield. My lord, that cannot be, for I can't return so soon.*

L. C. J. Then let him be committed.

Which was accordingly done.

Of this woman's share in what is called the Meal-Tub Plot, Hume says nothing, nor does he say enough of that transaction itself to enable his readers to form any notion of it. He, indeed, says,

"The bottom of this affair it is difficult, and not very material, to discover. It only appears, that *Dangerfield*, under pretence of betraying the conspiracies of the Presbyterians, had been countenanced by some Catholics of condition, and had even been admitted to the duke's presence and the king's. And that under pretence of revealing new Popish Plots, he had obtained access to Shaftesbury and some of the popular leaders. Which side he intended to cheat, is uncertain; or whether he did not rather mean to cheat both: but he soon found, that the belief of the nation was much more open to a Popish than a Presbyterian Plot; and he resolved to strike in with the prevailing humour. Though no weight could be laid on his testimony, great clamour was raised; as if the Court, by way of retaliation, had intended to load the Presbyterians with the guilt of a false conspiracy."

Mr. Fox does not even mention it. Echard gives a long account of it, upon which Oldmixon criticises with his usual asperity. Rapin gives the outline of the story. Roger North writes largely concerning it. The best account of it with which I have met in any of the histories is that which Ralph hath composed from original documents and the narratives of preceding historians. I will therefore insert it, premising Burnet's short account and Roger Coke's observation that the Report which Attorney General sir William Jones (to whom the examination of the matter had been referred) made of it to the council, upon which they voted Mansel innocent and *Dangerfield* guilty, that this was a design of the papists to lay the plot to the dissenters charge and a further proof of the popish plot, was such a crime in Jones that he was soon after put out of his place and sir Robert Sawyer put in, who would not venture the loss of his place for such another report.

"A pretended Plot discovered called the Meal-Tub Plot.

"*Dangerfield*, a subtle and dexterous man, who had gone through all the shapes and prac-

* See the Trial of Robert Francis, for the Murder of this *Dangerfield*, *infra*.

tices of roguery, and in particular was a false coiner, undertook now to coin a plot for the ends of the papists. He was in jail for debt, and was in an ill intrigue with one Cellier a popish midwife, who had a great share of wit, and was abandoned to lewdness. She got him to be brought out of prison, and carried him to the countess of Powis, a zealous managing papist. He, after he had laid matters with her, as will afterwards appear, got into all companies, and mixed with the hottest men of the town, and studied to engage others with himself to swear, that they had been invited to accept of commissions, and that a new form of government was to be set up, and that the king and the royal family were to be sent away. He was carried with this story first to the duke, and then to the king, and had a weekly allowance of money, and was very kindly used by many of that side; so that a whisper run about town, that some extraordinary thing would quickly break out: And he having some correspondence with one col. Mansel, he made up a bundle of seditious but ill contrived letters, and laid them in a dark corner of his room: And then some searchers were sent from the custom house to look for some forbidden goods, which they heard were in Mansel's chamber. There were no goods found, but as it was laid they found that bundle of letters; and upon that a great noise was made of a discovery: but upon enquiry it appeared the letters were counterfeited, and the forger of them was suspected; so they searched into all *Dangerfield*'s haunts, and in one of them they found a paper that contained the scheme of this whole fiction, which because it was found in a Meal-Tub came to be called the Meal-Tub Plot. *Dangerfield* was upon that clapped up, and he soon after confessed how the whole matter was laid and managed: In which it is very probable he mixed much of his own invention with truth, for he was a profligate liar. This was a great disgrace to the popish party, and the king suffered much by the countenance he had given him: The earls of Essex and Halifax were set down in the scheme to be sworn against with the rest." Burnet.

"Ralph's Account of the Meal-Tub Plot.

"One *Dangerfield* (who had been a companion with Bedlow upon the road, and in prison for debt) seeing his comrade in such plenty and esteem by his testimony against the papists in the plot, knew not better how to introduce himself be a witness, than by offering his service to the papists, that he might have some conversation with them to put a colour upon his testimony. And it happened, that the lady Powis made it her business to collect money for divers who were thrown into gaol on account of this plot, or the popish religion; wherein Mrs. Cellier, the midwife, was her agent, who was a notable, pragmatical woman, and, by her profession, was acquainted with many great ladies at court. Mrs. Cellier, taking a liking to this *Dangerfield*, and his debt being

but small, for which he was in gaol, recommended him to lady Powis's stock, and took him out, and he turned papist to boot, and promised to be very officious to serve the papists by soliciting for them, by taking notes at trials, and by going to coffee-houses and other fanatical clubs, and discovering designs. His forwardness begat great confidence in him, and he was carried to lady Powis to thank her for her charity, and gave her many assurances.

Dangerfield introduced to the Duke of York.

"I make no doubt but, all this while, he had some friends, among the contrary party, that were able to help him, and to let him pass amongst them, and be in some cabals for the entitling him to some credit. After a little time he comes big to Mrs. Cellier, with a discovery that the fanatics were hatching a rebellion, and that there was to be a sudden rising in arms, and that himself was to have a commission and be a captain; that new counsellors of state were appointed, and a model of an army made affecting the design; that, if he might find credit, he would discover it to the king, and be a spy upon them, and, in time, get so far into their councils, as to know where their treasonable papers lay, which he would reveal, that they might be seized; and at last he would get from them a commission, which he would produce to detect their villainies, and preserve the king. Mrs. Cellier knew not any fitter person to introduce him than my lady Powis, who, by reason of her nephew's marriage with, the earl of Peterborough's daughter, might bring him to the said earl, in order to be brought to the duke, to whom he had a great mind to apply himself, and whose protection he desired.

The Duke passeth him to the King, and he to the Secretary.

"His passage was very easy to the duke; for these great persons (lord Peterborough and lady Powis) not imagining the villainies of the world, nor being used to business, were very greedy of it when it was offered, and thought to appear very serviceable to the king as well as the duke by it. But the duke, who had always lived regularly and carefully, as soon as the captain was brought to him (for so he would be called, saying, that he missed his employment among the fanatics: he knew the king would repair him by a commission of that quality at least; and the earl of Peterborough failed not to treat him in that style) gave him encouragement to serve the king, and told him he would inform the king of it, and he should suddenly know the king's pleasure. The captain was startled at this, and desired the king might not be acquainted with the business, until it was more ripe for discovery; but the duke professed he would retain no secret from the king, and bid him wait on the earl of Peterborough, and he should have an account of the king's pleasure. The captain was a

little troubled at this; for he had a mind to transact with, and have frequent access to his royal highness, and expressed a discontent. But there was no remedy, and so he was to attend the king's pleasure; which was, that col. Halsey should carry him to secretary Coventry, to whom he should declare his business, and receive directions from him as there should be occasion.

He applies for money, and cut short by the Secretary.

"He was fain to play his game as well as he could, and desired once to be brought to the king, to whom he declared what confidence the earl of Shaftesbury had in him; and, to make it appear, he produced to the king two letters of sir Richard Bulstrode, directed to the earl (how he could come by them is very considerable, he said it was by accident, they lying in a loose drawer in the earl's house.) The king made no question but that he had been with the said earl, but would give him no other directions, but that he should wait upon the secretary, and follow his orders. Then he pretended want of money, and obtained (a) some (being in service of this importance; and indeed it is the only fit reward for spies) whereupon he transforms himself into a genteel habit, and presseth for more money. But the Secretary began to grow waspish, and told him all his discovery lay in his own talk; for there was no manner of concurrent testimony, nor any commissions or papers produced, whereof he had so often talked, and in plain terms told him, he had more money than he deserved.

Mansel searched, and papers found of the Captain's laying.

"Then he pressed for a warrant to search for papers, and would have had the duke procure it; but he, having been a means to put this affair into the management of the king's ministers, would not any way farther concern himself in it. The captain then would have had the king command Mr. Secretary to grant him his warrant. But the king asking the Lord Chief Justice North, that casually stood by, it was told that, unless there was oath to ground a search, or some circumstances of pregnant suspicion, it could not be done. This answer being given, the captain saw there was no way to entrap these men that walk by rule; he must take some other course to bring himself fairly upon the stage, for the time of parliament was at hand, which was to be his harvest. Hereupon he gets a warrant of course to search for uncustomed goods; and searched colonel Mansel's chamber in such a way, as it was plain he took care that there should not

(a) Bishop Burnet says, he had a weekly allowance: Ferguson, that he had 12*l.* a week; but Dangerfield himself acknowledges the receipt of no more than 20 guineas from the duke, and 40*l.* from the king.

want demonstration that the (b) papers were of his own laying, by the clear testimony of the constables and officers that were with him. These papers he brings to the Secretary's, who now thought him in earnest; and the earl of Essex put a great value on his discovery, saying he believed there was something in it, for Mansel had been his servant, and he was as ill a man as could be, and very like to engage in that kind.

Dangerfield committed for a coiner.

"The (c)——being of the privy council, and coming into Whitehall to a committee of council, perceived, at the council stairs, Doyly, an officer of the Mint, and this Dangerfield quarreling; Doyly saying he was a coiner, and the captain saying he was employed about the king's business, and vouched Secretary Coventry, and this with great earnestness for some time, stopping his lordship's passage up stairs, and Doyly said he had proof against him. The lord——told him he would inform the Lords of it, and he was confident they would not permit any man to shelter himself in Whitehall from the law, especially in so great and so ignominious a crime; and so went up and sat in the committee, but did not interrupt the present business with a matter of such small consequence, as that quarrel was. But sir Thomas Doleman, a clerk of the council, came to his lordship, and told him Doyly had sent to put him in mind of the coiner that was below, and thereupon shewed a false guinea, and undertook to prove that piece was of that fellow's coining. Thereupon his lordship moved that a messenger, by their order, might seize him and put him into a justice of peace's hand, to be examined, and ordered according to law. The order was given, and the thing presently done, and secretary Coventry, coming afterwards, said, smiling, that his intelligencer was apprehended for a coiner, but was told, that his intelligencer must answer the law; and so the captain was carried away and committed.

Sent to Newgate for the abuse of Mansel, and came off by a Narrative of the Plot.

"Colonel Mansel complained of the abuse upon him, and, thereupon the captain was sent for to answer, and pretended to make a defence, but with so much affectation, and ridiculous confidence against the plainest proofs that ever were, that he was committed by this council for this false accusation of colonel Mansel, and forging the papers; and he was not wanting too, in his defence, to shew how he was admit-

(b) They were nine in number, and were pinned behind the bed's head: he was forced to find them himself; and, before he had time to read the contents, cried out, Here is treason! Here is treason against his majesty!

(c) By the help of colonel Mansel's and Dangerfield's narratives, we find this and the following blank should be filled up with the name of Lord Chief Justice North.

ted into the king's presence, and affirmed some things contrary to the king's own remembrance. During his being hurried to and fro, Mrs. Cellier was not wanting to place herself in his way, to hearten him, and promise him his part should be taken; and he, to rid himself of some (d) papers, gave them to her, advising

(d) A True and Exact Copy of the Book found by sir William Waller, at Mrs. Cellier's house, in the Meal-Tub, on Wednesday, October 29, 1679:

Major Alsop's promise to me for a Commission. Mr. Gooding's promise to support D. M. if banished.

Friday night, the 12th of September. D. Monm. went to the Sun-Tavern, to converse with Playér (sir Thomas,) and Jencks (another notable city Exclusionist,) for the settling affairs, and also a supply for himself, if banished. The manner of the meeting of four several clubs, viz. At the King's-Head Tavern, at the Green-Dragon Tavern, at the Sun-Tavern, and one at a chandler's-shop in Westminster; which are at present employed, as writers and messengers, into the country; but, when occasion shall require, they are to be field-officers. The manner of sending those messengers. The manner of their meeting, for the better concurrence of all matters. Their way of contributing, how often, and for what purposes it is done. The posture they were in for a rising in the city, if his majesty had died. The design of rising in the North, to join with the Scots; and what shall occasion that rising there. Gooding's account of the chief persons and commanders there among them, viz. lord Shaftsbury, lord Halifax, lord Radnor, lord Essex, lord Wharton, D. Buckingham, counsellors; D. Monmouth, general; lord Grey, lord Gerrard, and his son, sir Thomas Armstrong, lieutenant-generals; Blood, and Waller, to be major-generals. The field, and other officers, most of them meet at the several clubs, together with some that are in the country. The considerable parties would come from his majesty's horse and foot-guards, to join them, when occasion should require. Alsop and Gooding promise to introduce me to lord Shaftsbury, to be employed as a spy, and to have the promise for a commission. That only the consent of sir J. P. D. B. sir W. W. sir R. P. was wanting to give the stroke; but if they would not comply, it should be done otherwise, as at the parliaments, &c.

A parchment was seen in the hands of captain England, by Bed. on Monday the 22nd of Sept. 79, which was written on in indented letters, These are to authorize, &c. and thirteen label-seals to it. This at Blood's Club. On the same night was a secret cabal held at Blood's house.

The next, being Tuesday night, was one at sir W. W.'s. Gooding told me, a corporal of his acquaintance, was going to be listed, to discipline men.

Friday the 19th of September, a person was

her to hide them in the meal tub. And she held a correspondence with him in Newgate; and so the mistress of secrets and intrigues was fast in the trap, and suffered by standing in the pillory, and the captain was not long in Newgate, but desired one day to be brought before

sent from Blood's club to Huntingdon, about weighty business, and is not yet returned; which causes some fear of miscarriage.

Sept. 30th, the messenger returned from Huntingdon, who said, he had finished the business he went about, and that all that part of the country was in good readiness.

Saturday, the 5th of October, a cabal met at Waller's, to consult about the affairs of other counties; but particularly, for the present, the county of Dorset, Devon, and Cornwall; and, in order thereunto, two persons were sent away with great packets; and, in one of them, were divers papers, like printed warrants; and names and seals to the same; but the person who saw them could not come to read one: My Author is Alsop.

Monday, the 7th, a cabal met at Waller's, in order to the dispatch of divers persons into the North, and to York city, to a club there, at one Lee's house, a tallow-chandler. These go into some part of Scotland too, before they return; and yet are obliged to return before the 30th of this month. Sir W. W. promise to B. for a commission. Lord S. promise of a commission to, &c. Gooding's promise to me of the list of 5,000, &c.

Sept. 9. Brown produced a paper to the company; who all approved of it, but especially one Desny, who said, 'Cursed be the man, whose mind is not suitable to this paper.' One Mason, at the same place, said, after some discourse of affairs, That all, within twenty miles round London, were ready to strike, whensoever they should be commanded, and that against the king's interest too; and said, it was not the French king's pretended invasion should put them in fear of any army the king now had, or could raise. It is also resolved, that, when any commissions are given out for the raising an army for the king, that some of the faction shall privately put in for employs, in order to the better serving that party, by the corrupting his majesty's soldiers. Wit. Curtice.

Wednesday, the 15th of October, I was with Lord S.

Saturday, 19, B. told me, sir W. W. said he had 300 horse at his command, to oppose an army that the D. and Lauderdale were going to raise in the North; and that, if they made not too much haste, he should have more."

But that the reader may be more fully satisfied of the matter of the informations given in to the king (says colonel Mansel, out of whose narrative this copy is taken) I shall give him the true copy of a letter sent by Mr. Willoughby to his majesty:

"Sir; May it please your most sacred ma-

sir (e) Robert Clayton, then Lord Mayor, where he made affidavit of a long narrative, and was, from that time, taken to be one of the principal discoverers of the popish plot. He accused the lady Powis and the earl of Peterborough, and afterwards the Duke of York, of High-Treason. The king, seeing so long a narrative so soon produced, concluded it had been meditated and prepared long before; and that all his intercourse at court was only that he might be admitted into the presence of those persons whom he designed to accuse; and that it was but an introduction to his being a witness to accompany the rest.

How the Earl of Essex was concerned.

"But it happened that he had stood in the pillory, and could be no legal witness, and the king would, by no address or application, be induced to (f) capacitate him to testify. So all his projects failed, though he was as much caressed, and as much weight laid on his testi-

mony; On Friday, the 26th of this instant September, was seen by a person whom I employ, in the hand of one England, a paper, like a list of men's names; and a parchment, in the likeness of a commission, with 13 label-seals, and as many names thereto, and at the top was, in great indenture-letters (viz.) These are to authorise, &c.—I myself was informed, that a corporal, now in your majesty's foot-guards, was to be sent into the North, to discipline a considerable number of men. My author for this was one Gooding, a nonconformist parson.—Friday, the 26th, was a person sent with a packet, very considerable, (supposed to be so by my friend, who saw the outside thereof) to Huntingdon: The said person is not yet returned, nor to be heard of, which much amazes the gang he was sent by, and at present puts a stop to their party.—It was spoken publicly in a club, That all things were in a ready posture, and they only expect your majesty's command to make the onset; but, if that be not, it is designed at the sitting of the parliament, if your majesty answer not their expectation.—I have also discovered a great correspondence between the same party and the Dutch; and believe, at your majesty's return, to give a good account of the same by God's help: Till which time I shall use my utmost endeavour to make myself,—Your majesty's most faithful and obedient subject, WILLOUGHBY."

(e) Ferguson asserts, "That, by this discovery, he made it most plainly appear, who set him on to frame this damnable piece of villainy; which so nettled the conspirators, that they knew not what to do; yet procured, that the mayor, instead of having thanks returned him for his service to king and country, met with a check at Whitehall, for meddling with what concerned him not." Growth of Popery part 2, p. 265.

(f) The Gazette, No. 1458, says, his majesty had granted him a pardon; but under what restrictions, is not explained.

mony by the anti-court party, but to no purpose. It was observed there was no man so eager as the earl of Essex, to prosecute the lady Powis, and to make use of him as well as colonel Mansel, who appeared to be of his side, to accuse and tax the court of a Sham Plot : which was wondered at, when he had been so forward to affirm that he believed there was reality in it.

"This Dangerfield was bred a clerk, being an attorney's son, and his father deeply engaged in the late times. He could write well, and was a handsome, proper young fellow, of a versatile wit ; so that if he should have been accepted to testify, by probability, he would have far outgone all the former witnesses."

"The turn here given to this affair, we see, is, That Dangerfield was a decoy for the exclusionists, and that they themselves were at the bottom of the very intrigue they afterwards so loudly clamoured against. On the other hand, according to bishop Burnet, he was a tool of the papists : and the great drift of the device was, to fasten a plot on those who had fastened a plot upon them : whence his lordship takes occasion to say

"This was a great disgrace to the popish party, and the king suffered much by the countenance he had given him."

"This is certain, that Dangerfield, rogue as he was known to be, was subsisted at Cellier's, at the expence of the countess of Powis : This the lady herself owned at the council-board ; as also, that he had told her of treasonable papers laid at Westminster ; and that on the secretary's refusing to grant a warrant to search for them without an affidavit, Mrs. Cellier had, in her presence, given the advice of seizing them by custom-house officers. It is moreover certain, that the very Gazette, No. 1,458, sets forth, that three several persons, one no friend to Dangerfield, had acknowledged several circumstantial matters which strengthened his evidence : And as certain it is, that the earl of Castlemaine, the countess of Powis, and others, were committed on the credit that was given to it by the council. On the other hand it is certain, likewise, that Dangerfield confessed at the council board, that he had several times discoursed with the lord Shaftesbury : And if it is not equally certain, it is extremely probable that there was an understanding between them ; there being no other satisfactory way to account for his having those two letters from sir Richard Bulstrode to that lord, in his possession : So that the most natural conclusion that had been drawn upon the whole, is, That both parties were equally disposed by any means whatever, to ruin each other : And that Dangerfield, with all the dexterity of a master genius, applied himself to raise contributions from both. Agreeable to which, the Lord Chancellor observed to him, when before the council, "That he was a fine fellow, first to come to his majesty with one story, then to the lord Powis, and from him to lord Shaftesbury, discovering to one what discourse he held to another."

What Roger North says more immediately concerning this Trial is :

"It is pleasant to observe how that versatile rogue deluded the midwife Mrs. Cellier, and indeed several others of the Catholic party ; and much to that purpose we shall have from the madam herself. For, however dexterous the captain was at his pen, having published various sorts of narratives (which, by the way, is no small avails of a discoverer that has the selling the copies) trenching upon her honour, she was as good at that sport as himself, and, I think, outwrote him ; and though her person was untowardly handled, yet she has done right to her fame in deathless narrative ; whence we may gather, not only the history of her troubles, but be entertained as with a comedy. And, in the quality of such (which kind of writing they say shews best the manners of any age) I must needs recommend hers. It will be but just to take her own tale of herself, as I have done the captain's ; though I must prognosticate somewhat of the tragic also to succeed ; enough to feed the humour of a melancholy genius, in a lively representation of so much wickedness and folly as ramped in that age. As for the gentlewoman's veracity, it is to be said that she wrote when all the persons were living that were named or concerned in her narrative. Therefore it could be no profit to write what might be straight proved false ; and, in such a circumstance, folks are careful of what they affirm. She dealt in acts of charity, and stood much upon her credit with persons of quality and honour, on account of her profession, who would not countenance a liar in print. For which reasons I make no doubt of saying, that all she writes of her own dealing and knowledge, is most likely to be critically true ; and the rest she believed sincerely to be so, and, if she fails, it is out of female prejudice and fond credulity, as will appear. She was not disproved in any thing, but reflected on sufficiently, and most of all by her former friend and admirer the captain ; and Miles Praunce hath a sling at her in print. But, whatever her religion and modesty might pretend to, she did not deserve to be put in a bag with such fellows as those were.

"She tells first of her having assumed the charitable post of relieving distressed prisoners, and procuring their liberties. These were, as must be presumed, Catholics, and committed mostly on account of the Plot. She tells us of strange cries she heard in the dungeon at Newgate, which she insinuates was Praunce examined by torture, and she says he run stark mad in prison. She names a coachman tormented to own carrying the body of Godfrey out of town, where he lives, and may be heard to own it every day. She relates other strange cruelties and barbarities used in that cursed place. She found here this Willoughby, alias Dangerfield, fast by the heels for debt. First, she says, he begged to partake of her charity. His first service was to draw up articles, setting forth the

cruelties of the prison, for which she gave him 2s. 6d. : those she presented to the judges ; but nothing came of it.

" His next employ was to sift one Strode, his fellow prisoner, to find out a subornation of the earl of Shaftsbury, who, as she presumed, was about to launch that Strode for a new Plot-evidence : and, upon application, Strode gave encouragement, pretending, by papers he had, to invalidate Bedlow. The captain's next work was to fish these papers from Strode, and, for that end, she sent him a narcotic. And she says that the papers were those that sir William Waller found in her house upon search. She adds some affidavits and testimonials about this Strode, to shew his engagements with Bedlow. Fellow paddlers, it seems. And one may guess he and Dangerfield were as well acquainted, and these papers were the joint imposture of both ; but Strode, being of another regiment, kept out of this, and left it wholly to his fellow.

" Now Dangerfield is out of prison, by Mrs. Cellier's charity, and, being a towardly young fellow, was constituted a waiter upon the jesuits at their trial ; for which purpose he was put in good cloaths, and people wondered what double diligent fellow that was. He was set to scout and bring her in intelligence of factious designs, and she tells what she understood was intended, if the king had died at Windsor. So she encouraged him to trade on as a spy, and, at several times, he wrote those papers, which were found in her meal-tub, whereof the revelation is coming forwards. She carried him to the earl of Peterborough, and he to the duke. He gave his paper to the duke, and he sent it to the king, and the king to secretary Coventry. Dangerfield was ordered to go with colonel Halsall to the secretary's to be examined, and he had 40*l.* given him. Then he brought word, in good earnest, to Mrs. Cellier, of a Plot just breaking out, but it seems, in a drunken huff, he had made a quarrel, and swore he would go over to the Presbyterians ; but this was hid from her. When he pretended the Plot-papers lodged at Mr. Mansel's, and could not get a warrant to search, she advised him to the custom-house way.

" After that was over, he comes to her in a most lamentable condition, and tells her he should be committed to Newgate. Alack a day ! they both wept ; and she sets down the mournful dialogue betwixt them. He gave her his Plot-papers, great secrets ! And she, as he must observe, put them in her meal-tub. And it was from this cleanly conveyance, the Meal-Tub-Plot had its denomination ; which single word is all that the author of our Complete History affords of the whole matter. Then comes sir William Waller, the Middlesex justice, to search her house, and would have her straight to my lord Shaftsbury ; but, at length, he took her parole, and let her alone at that time. But Willoughby sent to her from Newgate, for relief, in his great distress. She dispatched a servant, to whom he howled, and (to

meet her credulous fancy) said he had been tortured. He would have his allowance made firm to him by writing. She sent him word he should have his provisions continued, with her motto, ' I never change,' adding some short instructions. Then comes again the knight, with his myrmidons, ransacked her house, and, by a wonderful sagacity, found the papers in the Meal-tub ; so she was sent to the Gate-house. After this, she was brought to the council to be examined, where she down of her knees to the king, and begged she might not be tortured. The king said it could not be done by law. Then she sets down her examination, by way of dialogue, most divertingly. As, for instance, a certain lord, who spoke often, said nothing, without—put up your hood, madam. In the end, she was sent to Newgate, and there she was honoured with diverse visits from sir William Waller. She writes the conversation in dialogue, which is an excellent portrait to shew the method of working a witness ; for it seems there was great hopes of bringing her to what was called confessing, or telling all. And, for that end, Dangerfield, in the same prison, was permitted to court her at a window some distance off. That is dialogue also, and a choice piece. He shewed her gold, and moved her to become the king's evidence, and to swear against the duke of York, viz. that his royal highness gave her the original of the papers in the Meal-tub ; and that his royal highness bid her set him to hide those that were found at Mansel's, and to kill the earl of Shaftsbury ; telling her what vast advantages she should have from the lords, who were privy to all. The next day, he would have had her to own that the lord Peterborough gave her the papers, and that sir Allen Apsley (the duke's servant) paid her 1,000*l.* which was to pay her for killing the king and the earl of Shaftsbury, and for raising soldiers ; and, at these passages, he would howl most hideously.

" But, no good coming of this interview, the windows, (as upon a secret commerce discovered) were nailed up. Then she was examined again, and the dialogue no less comical ; and her servants were brought to oppose her. She begged the favour of the earl of Shaftsbury to protect her from sir William Waller, and she says, that he said many good things to her. And sir William made her another visit, of which she gives the conversation as before ; the sum of it was to make her a witness. She was again at the council, and was always urged to confess, and she was told that, otherwise, she should die for it. If these accounts of hers be true, as I see no reason to doubt them, there never was a woman more magnanimous and undaunted than she appeared to be.

" She pressed hard to be tried ; and, at length, in very good earnest, she was brought to the bar in April 1680, and charged upon an indictment of high treason, for consulting and expending money in a Plot to kill the king, and to raise war for introducing popery, and turn-

ing the Plot on others, and for hiring Dangerfield to kill the king, &c. There were two witnesses produced against her; one was Gadbury the astrologer, who, agreeable to his profession, courted secrets to credit the stars. He, as was said, had been in the same trap with the earl of Peterborough, but upon terms, to swear against Cellier, got his pardon; but when he came to, his memory was bruised, and he knew nothing at all. But then, as soon as Dangerfield advanced, the woman charged with fury upon him an whole battery of records, being convictions, outlawries and judgments, with Arser de main, pillory, prison breach; and what not of villainy, and almost every species of crime? Then by proof shewed so many ill

things of him, as the court was soon satisfied to reject him for a witness. She proved that, when she sent first to him to get acquaintance with Strode, his answer was, that they had been long acquainted, having padded together, and that he cared for neither fire, sword, nor liell, nor what he said or swore, for he had studied to be a rogue ever since he was ten years old. But in this, she gave no very good character of herself that, after such a declaration, trusted him as she did. But I think a roguy planet reigned at that time; so common was it to encourage and trust the worst of them. In fine, the fellow was exploded with ignominy, and sent home to Newgate again, and the prisoner was acquitted."

266. The Trial of ROGER PALMER, esq. Earl of CASTLEMAINE, in the Kingdom of Ireland, at the King's-Bench, for High Treason: 32 CHARLES II. June 23, A. D. 1680.

ROGER PALMER, esq. having been arraigned of High Treason, and pleaded Not Guilty, was this day brought to his trial.

Cl. of Cr. Crier, make proclamation.

Crier. O yes! Our sovereign lord the king doth strictly charge and command all manner of persons to keep silence, upon pain of imprisonment. O yes! If any one can inform our sovereign lord the king, the king's Serjeant at law, the king's Attorney General, or this inquest now to be taken of the High Treason whereof Roger Palmer, esq. earl of Castlemaine, in the kingdom of Ireland, stands indicted, let them come forth and they shall be heard; for the prisoner stands at the bar upon his deliverance.

Cl. of Cr. Crier, make an O yes.

Crier. O yes! You good men that are impannelled to enquire between our sovereign lord the king, and Roger Palmer, esq. earl of Castlemaine, within the kingdom of Ireland, answer to your names.

Cl. of Cr. Roger Palmer, esq. earl of Castlemaine, in the kingdom of Ireland, hold up thy hand: These good men that were lately called, and now here appear, are to pass between our sovereign lord the king and you upon your life or death; if you challenge any of them, you are to speak as they come to the book to be sworn, and before they are sworn. Sir John Cutler, kt. bart.; sir Reginald Foster, bart.; Henry Herriot; Richard Cheney; Thomas Johnson; John Roberts; Fr. Dorrington; Hugh Squire; Charles Good; John Pulford; Edw. Claxton, esquires; Fr. Maybew, gent.

Crier. O yes! Our sovereign lord the king doth strictly charge and command all manner of persons to keep silence, upon pain of imprisonment.

Cl. of the Cr. Roger Palmer, esq. earl of Castlemaine, in the kingdom of Ireland, hold up your hand. You gentlemen of the jury that are now sworn, look upon the prisoner, and

hearken to his charge. You shall understand that he stands indicted by the name of Roger Palmer, esq. earl of Castlemaine, in the kingdom of Ireland; for that he as a false traitor against our most illustrious and excellent prince and lord Charles the 2d, by the grace of God of England, Scotland, France, and Ireland king, defender of the faith, &c. and his natural lord; not having the fear of God before his eyes, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the devil, his cordial love, true, due and natural obedience, which true and faithful subjects of our said sovereign lord the king ought to bear towards him, altogether withdrawing; and contriving, and with all his might intending to disturb the peace and common tranquillity of this kingdom, and to bring and put our sovereign lord the king to death and final destruction, and alter the true worship of God within this kingdom established, to the superstition of the Romish church; and to stir up and move war against our said sovereign lord the king within this realm of England, and to subvert the government thereof; the 20th day of June, in the 30th year of the reign of our said sovereign lord Charles the 2nd, of England, Scotland, France and Ireland king, defender of the faith, &c. at the parish of St. Giles in the Fields, in the county of Middlesex, with divers other false traitors to the jurors unknown, did traitorously imagine and intend the killing, death and final destruction of our said lord the king, and to change and alter, and utterly subvert the ancient government of this kingdom, and to despose and wholly to deprive our said lord the king of his crown and government of this realm of England, and to extirpate the true Protestant Religion: and to accomplish and fulfil the same most wicked treasons and traitorous imaginations and purposes aforesaid, the said Roger Palmer, esq. earl of Castlemaine in the kingdom of Ireland, and other false traitors

tors to the jurors unknown, the same 20th day of June, in the 30th year aforesaid, with force and arms, in the parish of St. Giles in the Fields aforesaid, in the county aforesaid, advisedly, devilishly, maliciously and traitorously did assemble, unite and gather themselves together, and then and there advisedly, devilishly, maliciously, subtilly, and traitorously did consult and agree to bring our said sovereign lord the king to death and final destruction, and to deprive him of his crown and government of England, and to introduce and establish the religion of the church of Rome, in this kingdom; and the sooner to fulfil and accomplish the same most wicked treasons and traitorous imaginations and purposes aforesaid, he then and there did falsly, maliciously and traitorously promise divers great rewards, and did pay divers sums of money to several persons unknown; and then and there falsly and traitorously did write divers notes, to incite several other persons to accomplish the treasons aforesaid, against the life of our sovereign lord the king, his crown and dignity, and contrary to the form of the statute in such case made and provided.

Cl. of the Cr. Upon this Indictment he hath been arraigned, and hath pleaded thereunto Not Guilty; and for his trial he puts himself upon God and his country, which country you are. Your charge is to enquire, Whether he be Guilty of the High-Treason whereof he stands indicted, or Not Guilty? If you find him Guilty, you are to enquire what goods and chattels, lands and tenements he had at the time when the High-Treason was committed, or at any time since? If you find him Not Guilty, you are to say so, and no more: and hear your evidence.

Crier. O yes! If any one will give evidence on the behalf of our sovereign lord the king, against Roger Palmer, esq. earl of Castlemaine, in the Kingdom of Ireland, let him come forth and he shall be heard; for the prisoner now stands at the bar upon his deliverance.

Mr. Bonithon. May it please you, my lord, and you gentlemen of the jury, the prisoner at the bar stands indicted for High-Treason; for that he intending to disturb the peace within this kingdom established, to destroy, and alter the government, and to bring the king to death and final destruction, and to alter our religion to the superstition of the church of Rome, did, on the 20th day of June, in the 30th year of the reign of our sovereign lord the king, consult and treat with several other persons, and that he with these persons did agree to destroy the king and alter the religion, and cause rebellion; and further to accomplish these treasons, he did promise and agree to pay several accounts, and deposit several sums of money, and did likewise write and publish several books. To this he hath pleaded Not Guilty; if we prove these things, you are to find him Guilty.

Att. Gen. (Sir Creswel Levinz.) May it please your lordship, my lord Castlemaine here

stands indicted for High-Treason; that is, For designing to murder the king, and alter the government and law. And this is but a parcel of the Plot, which hath been carrying on a great while, and many persons tried for it, and some have suffered and been executed for it; and my lord, we will give your lordship evidence, That my Lord Castlemaine hath at several times conspired the death of the king, and he hath reprov'd persons for not doing it. And my lord hath been in consults among Jesuits, where these matters have been carried on, and this whole design hath been negotiated; and my lord Castlemaine hath been consenting and agreeing to all these matters. And my lord, when the trials were in hand, it did appear upon those trials there were many persons brought from St. Omers to be witnesses against Dr. Oates, to prove he was not in England at that time when he said in his depositions that he did consult with the Jesuits; and these persons my lord Castlemaine had the management and instruction of at that time: and all along at the Old-Bailey my lord Castlemaine was present there, and did countenance these persons, and was an intercessor for them. These are but branches and circumstances; what is material we will prove by witnesses.

Att. Gen. Come, Dr. Oates, pray tell what you know.

Prisoner. My Lord, I have a long time wished for this day; and your lordship may very well remember it. The reason why I have so much desired a trial is, because I thought it a means, and the best means, and the only means to shew to the world my innocency, and also to shew to the world how much I have been calumniated by this charge.

L. C. J. (Sir William Scroggs.) What have you to say? Have you any thing to say against Dr. Oates?

Prisoner. No, my lord; I only say this, Here I am a prisoner at the bar, and I have pleaded Not Guilty, and throw myself upon this court; and therefore I am very willing to hear what this man will say.

Dr. Oates. My lord, I humbly move the court, Whether or no I may use my own method?

L. C. J. Give your charge, we direct nothing.

Oates. My lord, in 1677, I was sent over into Spain by the Jesuits that were here in England; where I remained for several months, and transacted business for them, and, my lord, I returned from Spain in November, and brought several letters from some English fathers there; among which there was one directed for my lord Castlemaine. My lord, I did not deliver the letter to him; but, my lord, the contents of the letter was to this effect—

L. C. J. How came you to see the contents?

Oates. My lord, I was at the writing of the letter, and so I did see the contents of it.

L. C. J. Did the priests shew it you, or did you only see it yourself?

Oates. No, my lord; it was shewn me by

them; And the contents of this letter were; "That the Fathers in Spain were very zealous to concur with the Fathers here in England in the design; which was the subversion of the government, altering the religion, and the destruction of the king."

L. C. J. Was that in the letter?

Oates. No, my lord, not in words at length.

L. C. J. What was, as far as you know, the very expression of the letter?

Oates. The word 'design,' my lord.

L. C. J. Only that, to promote the design?

Oates. Yes, my lord; and under that word we did comprehend all those things; that is, as we usually took it among one another.

L. C. J. Did you deliver this letter to my lord Castlemaine?

Oates. No, my lord, I did not deliver this letter; but when I went to St. Omers, we received an account from my lord Castlemaine of his receipt of this letter.

L. C. J. What did you do with it?

Oates. I left it with the provincial, my lord, who was then Mr. Strange.

L. C. J. Was it not given to you to give it to him?

Oates. It was given me to give the lord Castlemaine; but being then a stranger to him, I was willing to send one of his own messengers with it.

L. C. J. Where was my lord?

Oates. I cannot tell, my lord; I did not see him then; I went over to St. Omers in December 1677, or the latter end of November.

L. C. J. Where were you when you gave this letter to the provincial?

Oates. I was in London, my lord.

L. C. J. Where did you receive this letter?

Oates. In Spain, my lord, at Valladolid, of one Armstrong.

L. C. J. Who was it directed to?

Oates. To my lord Castlemaine; but I did not then know him, and so I gave it the provincial, my lord: I went over to St. Omers in the latter end of November, or the beginning of December 1677, and after I had been there some few days, there did arrive a packet from London to St. Omers, in which there was a letter from my lord Castlemaine.

L. C. J. To whom?

Oates. To the Fathers of the Society of St. Omers; in which my lord Castlemaine gave them an account of a letter that he had lately received from Spain.

L. C. J. How did you know the contents of this letter?

Oates. My lord, I was privy to their letters.

L. C. J. Was you acquainted with my lord Castlemaine's hand?

Oates. My lord, I will give an account of that: I did not know it then, but only as it was generally said amongst us.

L. C. J. How was it subscribed?

Oates. Castlemaine, my lord; and sometimes, my lord, he subscribed himself Palmer.

L. C. J. How many letters have you seen?

Oates. Several letters.

L. C. J. Was this the first?

Oates. This was the first, as near as I can remember. And, my lord, he gave an account in that letter, that he had received a letter from Spain, and was glad the Fathers in Spain had so good an opinion of his integrity in the cause.

L. C. J. Did he say from whom he had received it?

Oates. My lord, I cannot remember that; that he had received a letter, I am certain.

L. C. J. Do you know what the purport of the letter was?

Oates. Yes, my lord, I will give you a plain account. My lord, he wrote he had received a letter from Spain, and that he was glad the Fathers in Spain had so great confidence in his integrity. And, my lord, in March there came another letter from my lord Castlemaine; for my lord Castlemaine had left some things at Liege, wherein he did complain of the Fathers, that they made no more haste for to send his things to him; some odd things he had left there; and, my lord, he gave an account of a certain letter he received from the rector of Liege, whose advice he did not like: for the rector of Liege and the rector of Gant were mighty zealous that the secular clergy should be personally present in this affair.

L. C. J. Did he write so? I would have you say what he writ.

Oates. My lord, I have told you he gave an account, that he was unwilling to have the secular clergy engaged, because they were a loose sort of men, and of no principles, and therefore he thought them not fit to be trusted. My lord, in April there was a consult; I came over from St. Omers in April, some 3, or 4, or 5 days before the consult, I am not able to guess at the particular time, but it was near upon the consult. My lord, this consult was divided into several companies, after they had met at the White Horse Tavern, wherein they did some things that did relate to the order, as to send Father Cary to Rome. And after they had divided themselves into several companies, wherein they did agree in ordering the death of the king.

L. C. J. You were by?

Oates. My lord, I was employed by them to give an account of the sense of one company to another.

L. C. J. Were you by when they concluded the death of the king?

Oates. Yes, my lord, I was then present.

L. C. J. Did you sign among the rest?

Oates. My lord, I do not come here to accuse myself.

L. C. J. You are pardoned, if it be so.

Oates. My lord, I did consent. My lord, in this consult they met together, and an oath of secrecy was administered; my lord Castlemaine was there, too, within some few days after the consult; That is, the gentleman whom I accuse for treason, I say, did come, and enquired about the copies of some letters for to be sent up into Germany, and did desire, that an agreement between them and the monks might

be made up, there being a difference between them, so that they might have the assistance of that order to carry on the design.

L. C. J. What gentleman was this?

Oates. It was the prisoner, my lord, at the bar.

L. C. J. Would the gentleman let you hear him say, that he desired assistance to carry on the design, and you are a stranger to him?

Oates. My lord, I do not think I was a stranger to him so much as he was a stranger to me; he knew I was their servant, and employed by them.

L. C. J. Would he say in your hearing, that he desired their assistance to carry on the design, and you did not know him?

Oates. My lord, I did not well know him at that time; and I brought several messages from the fathers, and from Mr. Langhorn, and gave them an account before him.

L. C. J. How often had you seen him?

Oates. That time he was there, my lord.

L. C. J. How many messages had you?

Oates. I will tell your lordship where I had been: I had been at Mr. Simmonds's, who was then confessor to the earl of Arundel, who is since turned protestant; confessor to him, as he pretended, and we looked upon him to be. And I had been at Father Cain's, who was in Turpmill street; and I had been, my lord, at Mr. Langhorn's in the Temple; and some other places which I do not now remember, it is so long since. So, my lord, I gave them an account of my business, and I did see that gentleman, but didn't know his name till, my lord, in June.

L. C. J. When was this?

Oates. This was, my lord, as near as I can remember, in May.

L. C. J. So you did not know his name till three weeks or a month after.

Oates. No, my lord, it was in the latter part of June.

Justice Jones. You saw him first in May?

Oates. Yes, my lord.

Justice Jones. And you did not see him till after the consult? I don't ask you whether he was there or no? But whether you saw him before the consult was signed?

Oates. No, my lord.

L. C. J. How did you come to know his name?

Oates. My lord, in June Mr. Langworth and I were going over Lincoln's-inn-fields, intending to go to the Fountain in Fuller's-rents, because there was a sort of drink that he loved, and we were to drink together, it was in the evening; and so in our way as we went, we met with my lord Castlemaine, whom Mr. Langworth did salute, and then we came back to Mr. Fenwick's chamber.

L. C. J. With whom did you come back?

Oates. With my lord Castlemaine.

L. C. J. Did you know his name?

Oates. Mr. Langworth told me it was the prisoner at the bar, my lord, and the prisoner at the bar was giving an account of some letters

VOL. VII.

he had received out of the country; and Mr. Langworth was giving an account how forward the rector of Liege and the rector of Gant were in offering to have the secular clergy engaged with them; and some other discourse they had which I can't remember, but about the design.

L. C. J. What did they talk of at that time? You must, as near as you can, tell us what discourse they had.

Oates. I will give your lordship this, they were speaking of the transactions of the consult, and how unanimous the Fathers were in signing the consult.

L. C. J. Who were speaking of it?

Oates. Mr. Langworth and Mr. Fenwick, and my lord Castlemaine was present.

L. C. J. They did talk of it?

Oates. Yes.

L. C. J. Did they mention the particulars of that consult?

Oates. Yes.

L. C. J. What was that?

Oates. Laying aside the king.

L. C. J. And what else?

Oates. And bringing in the popish religion, the catholic religion, I speak their own words.

L. C. J. And this discourse they had in the hearing of my lord Castlemaine?

Oates. Yes; and my lord Castlemaine said, Now he should be revenged for the injuries done to him.

L. C. J. Go on.

Oates. I have nothing else to say of my lord Castlemaine that I can think of at present.

L. C. J. Now, my lord, you may ask him what questions you think fit.

Prisoner. Mr. Oates, repeat your journey again.

Oates. My lord, I say this, I went a ship-board in April, I returned from Valladolid in November, I arrived in London in November, and staid in London some time, and then I went to St. Omers in November or December, New Stile or Old Stile; I staid at St. Omers; from thence I went to Watton; then, my lord, in the month of March we went to Liege, and returned back again; in the month of April we came hither, some time before the consult, and staid here some time after.

Pris. What time were you at Liege, pray, Sir?

Oates. In March 1677.

Just. Jones. The end of 1677?

Oates. No, my lord, we were at St. Omers again in March.

L. C. J. You returned in March 1677-8.

Oates. Yes, my lord, the stile does so alter.

Pris. That is before Lady-day.

Oates. Yes, my lord, it was before Lady-day, we arrived here in London in May or in April, and we staid here some few days.

Pris. When did you come over again, pray, Sir?

Oates. My lord it is now two years ago, or better, and I can't remember every particular time; my lord, we were here in May.

3 Z

Fris. I will ask him as many questions as I think reasonable; and when, my lord, I do desire time, and he cannot tell the times, he must tell me so.

L. C. J. Mr. Oates, answer my lord what questions he asks you.

Oates. I will tell my lord Castlemaine as near as I can remember, my lord.

Fris. Mr. Oates, when was it you came over?

Oates. Really it was some few days before the consult.

Fris. How many days do you think?

Oates. Really I cannot remember.

L. C. J. I suppose you have your memorials.—*Oates.* Really, my lord, no.

L. C. J. Have you any thing more to ask?

Fris. Yes, my lord, a great many questions. Were you present, Mr. Oates, pray, at that consult, when I consented to the king's death? was you by?

Oates. I was present at the consult; but I do not charge you to be at the consult.

L. C. J. He asks you where it was he agreed to it?

Oates. At Mr. Fenwick's chamber, I remember it was about seven or eight o'clock that we were going over Lincoln's-Inn-Fields.

L. C. J. How long might you be at Fenwick's?

Oates. It was about eleven or twelve o'clock I came away.

Fris. When you met me in Lincoln's-Inn-Fields, was I in a coach or on foot, or was any body with me?

Oates. I cannot say whether your lordship had a man with you, or no:

L. C. J. Was there any body with him?

Oates. I did not take notice of that.

L. C. J. You were two hours together, pray let me ask you this question, What was your discourse about?

Oates. That was part of the discourse, my lord.

L. C. J. What? You have given us a very short account of it in four lines: you were two hours together, What was the main of your discourse about?

Oates. My lord, I will give you as plain as I can, the discourse at that time.

L. C. J. Pray let us know what the main of your discourse was about.

Oates. One part of their discourse was about the revenues of their colleges, and how they had suffered by the French taking St. Omers, and what losses they had sustained by reason of the change of government by the conquest; for the crown of Spain had entailed on the college of St. Omers five or six hundred a year, for the maintaining the foundation of their house, or foundation rent, and it was taken away by reason of the conquest that France had made over the Spanish dominions there; and they were consulting how they should write to father La Chaise to be an instrument to move the French king to restore this annuity, that was a settlement entailed upon it.

L. C. J. How came you into this discourse?

Oates. This was after the other discourse?

L. C. J. How came you to discourse this affair here in England?

Oates. I will tell your lordship as near as I can remember: when we met in Lincoln's-Inn-Fields, Mr. Langworth recommended me to my lord Castlemaine, and bade me take notice of him. I cannot say this is my lord Castlemaine, but this is that man I saw.

L. C. J. Did he call him by his name?

Oates. He told him that I was such a one, and that I was serviceable to them. And upon our way as we went to Mr. Fenwick's chamber, he enquired into the causes of my coming over so soon again, for he said I went over but last month. Said he, How came it to pass he came over so soon again? saith he, We wanted him to do some business for us. And there were more particulars of the transactions of the consult mentioned to my lord Castlemaine.

L. C. J. How did they bring in the particulars of that design?

Oates. This is as near as I can remember.

L. C. J. How came they to talk of laying aside the king, and bringing in the Catholic religion?

Oates. My lord, after they had given an account of the transactions of the consult: this was one part of the consult.

L. C. J. Pray how came they to bring it in, in discourse?

Oates. My lord, they spake of the particulars of it.

L. C. J. I wonder what introduced the particulars: was it to acquaint him with those particulars?

Oates. My lord, I have nothing to say to that; they were things so generally talked of by those of the Jesuitical party, that whenever they met, they scarce did talk of any thing else but of that, and so they did at this time.

L. C. J. Pray tell me the whole discourse, as you can remember, that relates to this time.

Oates. My lord, I have told your lordship we met with my lord Castlemaine in Lincoln's-Inn-Fields. I have told you, my lord, that we went to Mr. Fenwick's; I have told you, my lord, that after some discourse (how it was introduced I cannot be positive, but as I can remember) they were speaking of my going over and coming again so soon, my going from the consult to St. Omer's and returning again into England so soon, and so one word brought in another.

L. C. J. Did you know then that my lord Castlemaine had ever heard of this matter before?

Oates. My lord, I do not know; but I am morally certain as to myself; but I cannot swear he did.

Att. Gen. Did he speak of it to him as a stranger to it?

Oates. No.

Just. Jones. By the letter you speak of he knew before.

L. C. J. Answer my brother's question; was the letter you had seen, before or after that discourse at Fenwick's?

Oates. My lord, that was after the consult.

L. C. J. Then you know he did know of the design?

Oates. My lord, I think not of the particulars of the design.

L. C. J. That is, he knew of this design for the main. When you talk of the design, you always mean the consult.

Oates. No, my lord, when we say the consult, we mean what was agreed on at that consult, not concerning these matters that were done six months before.

L. C. J. Mr. Oates, tell me, when you mention the design and the consult, do not you always mean the death of the king and the bringing in Popery?

Oates. Yes, my lord, but the terms are not convertible: for, my lord, when we say the consult, there was something else done, my lord, at that consult which had not an absolute relation to the design; and of that I will give your lordship one instance, as the sending Father Cary to Rome, which they did in some three years.

L. C. J. Some trivial matters concerning their own government, but the thing you talk of is the same consult and design.

Oates. When I speak of the word design, it was so taken among us, and so received by my lord Castlemaine.

L. C. J. How can you say it was so received by him?

Oates. Because he used the same word, and answered us according to our interpretation.

Justice Jones. My lord, he speaks of the design thus: there was a design for the killing of the king, there was a design of the priests and fathers for it; but saith he, 'Afterwards there was a general consultation,' and this design came to be formed by this general consult, which my lord Castlemaine, as he thinks, had no knowledge of till the time they met together in Lincoln's-Inn fields, and afterward went and discoursed about it.

L. C. J. It is very fair, that he doth not know that my lord Castlemaine had any knowledge before the consult of this business; but, he says, 'The Design upon which the consult was, that he might know, which was to destroy the king, and bring in popery.' And he says, my lord Castlemaine did understand this word design in that sense they did; because he answered their letters according to their interpretation of it. How do you know he understood the word design in its utmost capacity as you understood it?

Oates. When we have our words, we have our keys whereby we understand them. But I will answer this question to the satisfaction of the gentlemen of the jury. My lord, he hath many times spoken in his letters of introducing the Popish religion, and annexed it to the word design of promoting the Catholic religion here in England.

L. C. J. Now methinks you have brought the word design to something else than killing the king.

Oates. Yes, my lord, the subversion of religion and the government.

L. C. J. Did he put in government? Did he talk of bringing in the Catholic religion, and altering the government?

Oates. No, my lord, I won't say that.

L. C. J. When we are examining concerning men's lives, we must be careful of their words in such matters.

Oates. One part of my evidence I have omitted, your lordship did ask me how I came to know my lord Castlemaine's hand. My lord, sometimes we received letters from him subscribed Palmer, and sometimes subscribed Castlemaine, sometimes some other name which I may not remember, and they were generally received as from him. And I have seen, my lord, my lord Castlemaine write; for that night, as near as I remember, it was post-night.

L. C. J. At Fenwick's chamber?

Oates. At Fenwick's chamber, and my lord Castlemaine did write a letter, subscribed it and sealed it, and I was fain to go to the general post-house, it was so late.

Justice Jones. What, did he subscribe then?

Oates. No, my lord, I saw no more than the superscription.

L. C. J. Then you did not see his name to it?

Oates. No, my lord. My lord Castlemaine did ask, Why he had not answers to such and such letters? For several letters I had seen which were not of much moment.

L. C. J. I wish you had one that was of moment.

Oates. It cannot be expected, my lord, that I should have them.

L. C. J. My lord, ask him what you please.

Pris. You say, Mr. Oates, you received letters from me in Spain?

Oates. I never said so.

Pris. You saw letters in Spain from me?

Oates. Yes, I have seen letters in Spain that were from you.

Pris. Look you, Mr. Oates, pray let me ask you a question, you said this, That you did not know me when you met at the consult?

Oates. What consult?

Pris. At Fenwick's chamber.

Oates. I did not know you at Wild-house.

Pris. There you met me first?

Oates. There I met the prisoner at the bar.

L. C. J. He says he did not know you at Wild-house, but he came to know you by Langworth in Lincoln's Inn-Fields, and then you went together to Fenwick's chamber.

Pris. Mr. Oates, Did not you say, that at Wild-house you did not know me, nor I you?

L. C. J. He says he cannot tell whether you knew him or no, but he did not know you.

Pris. Was I familiar with you?

Oates. No, my lord.

Pris. Did I talk treason at Wild-house?

Oates. It was the discourse of the day, but I do not remember every particular of the dis-

course; but I remember what your opinion was concerning the rector of Liege and the rector of Gant.

Pris. Was there any thing about killing the king at Wild-house?

Oates. Really, my lord, I cannot remember, I won't charge it there, because I am upon my oath; though I morally believe, as to myself, that there was discourse bad enough there.

Pris. Mr. Oates, Pray will you hear me? Then the acquaintance I had with you was by Mr. Langworth, and then we went that night to Fenwick's chamber, and there we staid very long, and there we had all this discourse?

Oates. Yes.

Pris. Look, Mr. Oates, was there any body by besides Mr. Langworth and Mr. Fenwick?

Oates. Really, my lord, I do not remember any body was by, unless a maid might come to fill a cup of drink or so.

Pris. Mr. Oates, pray, Mr. Oates, did you and I ever meet together after that time?

Oates. Really, my lord, I cannot be exact in that.

Pris. Did you never see me nor discourse with me after that time?

Oates. I cannot recollect myself as to that, I cannot remember.

L. C. J. He does not remember that ever he was with you afterwards.

Pris. You do not know whether ever I discoursed with you afterwards?

Oates. I do not remember.

Pris. Very well, Mr. Oates: look you, sir, you do not remember that I ever had any discourse with you after that time; and no body was by but Mr. Fenwick and Mr. Langworth?

Oates. As I remember.

Pris. Was not there another priest there?

Oates. There is nobody occurs to my memory.

Pris. Mr. Oates, you brought me letters from Spain?

Oates. I brought a letter from Spain directed to you in 1677.

Pris. Was I in town or out of town?

Oates. I delivered it to the provincial.

Pris. You went over to Liege; did not you see me there?

Oates. No, my lord, I did not see you there, I only went to wait upon a gentleman that was a priest afterwards, that went to take orders.

Pris. Did you not see me at Liege?

Oates. No, my lord.

Pris. You were at Liege, did you stay there?

Oates. I lay there one night.

Att. Gen. Have you any thing to ask, my lord?

Pris. Presently, my lord.

Justice Jones. It is very reasonable, my lord should question you. You own him to be the lord Castlemaine: when was it you did first discover this business concerning my lord Castlemaine?

Oates. My lord, I did discover my lord Castlemaine to be in the Plot the last sessions of the long parliament, and I accused my lord

Castlemaine this Trinity-term was 12 months, and my lord Castlemaine was committed: for when Mr. Dangerfield came in and accused my lord Castlemaine, I brought a charge a second time against my lord Castlemaine.

Justice Jones. Did you discover all this then?

Oates. I did charge him for having an hand in the design in general.

Justice Jones. To the parliament?

Oates. Yes, to the parliament.

Pris. You say, when I assented to the king's death in Fenwick's chamber, that I said I should now find a time to be revenged?

Oates. Pray, my lord, do not put me to mention such reflecting evidence.

Pris. When you were before the king, you did in pursuance of this speak of a divorce.*

Oates. My lord, I will give evidence as to that, if that my lord comes to be indicted for his priesthood.

L. C. J. My lord may ask what questions he shall think fit.

Att. Gen. My lord says he has said it, and what he said in another place he is not to treat now of.

Pris. Suppose I can prove him an ill man in any place, is not that fit to be spoken of here? Since he hath brought the king upon the stage, and since he hath accused me before the king and your lordships of a divorce, I ask him whether he saw it?

Oates. I will tell your lordship what I said as to the divorce: I heard it discoursed of generally among the fathers beyond sea, and this was some other part of the discourse at Wild-House; and I heard my lord Castlemaine say that he had been at a great charge to carry on that business of the divorce.

Pris. At Wild-House?

Oates. At Wild-house. Now, my lord, I took no notice of it because it was not my business. But, my lord, after that there was a priest's chamber that was searched, and there was the whole Case stated; now what is become of the state of that Case, my lord, I cannot tell.

L. C. J. By whom was that Case stated?

Oates. There was a letter found, whereby my lord Castlemaine should have the matter

* The prisoner was the husband of Barbara Villiers, the first mistress to Charles the Second after his Restoration. Indeed according to Oldmixon (1 Hist. of England during the reigns of the Royal House of Stuart, 471) it was currently reported, that on the very night of the king's coming to London he took her from her husband.

In 1661 the husband was created baron Palmer and earl of Castlemaine in Ireland (of which honours, it has been said, that he was not very proud) and, in 1670, the wife was created baroness Non-such, countess of Southampton and duchess of Cleveland, in England. See the Proceedings in the House of Commons against lord Castlemaine, A. D. 1689.

directed in order to the carrying on the divorce that was to be between him and his wife Barbara.

Pris. Did not you tell the king that you saw the divorce in Strange's hand?

Oates. My lord, I will tell you this, I gave an account to the king that I saw in Strange's hand an account of a divorce that was between my lord Castlemaine and Barbara duchess of Cleveland.

Recorder (sir George Jefferies). My lord, if he ask too many questions that do not relate to this matter, it is impossible to give an account of every particular.

Pris. My lords, I humbly submit this case.

Recorder. Ask him what you said to such a man upon the 9th of August was twelve-month, must he give an account?

L. C. J. He must say he does not know.

Recorder. Indeed it is reasonable that my lord Castlemaine should ask him some questions, and that Mr. Oates should give him an account.

Att. Gen. My lord, will you give me leave to speak? If he may ask questions about such foreign matters as this, no man can justify himself.

L. C. J. This is not so mighty remote but use may be made of it.

Att. Gen. If he should ask whether he were such a day at such an house, and tell him yes, and mistake the day; any man may be caught thus.

Pris. How can a man be caught in the truth?

Att. Gen. My lord Castlemaine may, if he can, catch him in any thing he gives in evidence here.

Pris. My lord, if your lordship over-rule me, I will say no more. Mr. Attorney says I come to catch him, I confess I do.

Att. Gen. You should not ask him foreign questions.

L. C. J. He asks a plain question; why do you labour so much that he should not ask, whether he had seen the divorce? My lord Castlemaine I have asked the question for you whether or no he said he had seen the divorce? and he does not remember whether he said so or no.

Att. Gen. My lord, I think, with your lordship's leave, that he is not bound to answer questions that are not to the evidence.

L. C. J. If so be he would come to make application, it may be well enough.

Att. Gen. I say it for the method of the evidence, my lord, that I would not have these excursions.

Pris. I desire your lordship that I may say out what I have to say. I say this, that no man in the world that speaks truth can be caught, neither will Mr. Attorney suffer me to catch him.

Att. Gen. I say you have liberty to catch him in any thing that doth belong to the evidence.

Pris. I come to shew you the fitness of it

to this affair. He comes and tells you, among other consults, of Wild-house, and my meeting him in Lincolns-Inn-Fields, the recommendations of Mr. Langworth, and going to Fenwick's chamber, where we talked of altering the government, and my assenting to kill the king; and since you have brought the king upon the stage, I will refresh your memory a little; since you talk of revenging myself, look you if you did not mention a divorce to the king and also to my lord chief justice.

Att. Gen. My lord, you are under a mistake.

Pris. Pray give me leave, Mr. Attorney.

Att. Gen. You make such excursions into foreign matters.

Pris. Mr. Oates, you did say you saw a divorce. I ask you whether you saw a divorce, and where; or whether you said so?

L. C. J. He says, he does not remember he said so.

Oates. I do not remember whether I said so or no, my lord, I have it down, but indeed I did not set my thoughts a-work.

Att. Gen. He hath given you an answer that may satisfy you.

Just. Raymond. He hath papers wherein he hath entered Memorandums to refresh his memory, but these papers he hath not by him.

L. C. J. Then he may say, he hath not.

Att. Gen. That he hath already, my lord.

L. C. J. Have you any more to say?

Pris. I have, my lord, if you will give me leave to write down two words.

Pris. Mr. Oates, you told my lords the Judges that I did say, I was at great expence about a divorce?—*Oates.* Yes.

Pris. That is very well, Mr. Oates.

Att. Gen. Call Mr. Dangerfield.

Dr. Oates was going out of the court.

Pris. May Mr. Oates go out of the court?

Court. Yes, yes.

Oates. I will be within call, my lord.

Pris. I only submit it to your lordships, whether or no a witness may go out of the court?

Oates. I will stay then.

Att. Gen. Swear Mr. Dangerfield.

Pris. Pray stay.

L. C. J. Why so?

Pris. Here I am a prisoner, my lords, and submit it to your lordships, whether or no Mr. Dangerfield, who hath had the censure of this court, may be a witness? Whether or no counsel shall shew reasons to your lordship, whether he may speak or no?

Justice Jones. You must shew your exceptions that you have against him.

Pris. My exception is this: that he was convicted of felony, that he broke prison, and was outlawed upon it. Besides this, my lord, he is a stigmatick, hath stood in the pillory, and was burnt in the hand. Now I humbly beseech your lordships, that you will be pleased to hear what my counsel can say: and then, my lords, if you over-rule, I shall give place with all my heart.

L. C. J. I think it reasonable, if you desire counsel, that they should be allowed to speak.

Att. Gen. If your lordship please, when my lord's exceptions appear.

Justice Jones. What are your exceptions my lord?

Pris. That I told you beforehand: he is an outlawed person, he is convicted of felony.

Justice Jones. When was he outlawed?

Att. Gen. In the 27th year of the king, and we say he hath a pardon in the 30th year of the king.

L. C. J. How do you prove he was burnt in the hand, my lord?

Att. Gen. When was he burnt in the hand?

Pris. Call Briscoe.

Att. Gen. We bring a pardon unto that, and that will restore him.

[A Record produced.]

Att. Gen. That record we confess; shew the pardon, shew the pardon.

L. C. J. Now go to that for which he was burnt in the hand.

Att. Gen. Here is a pardon that extends to them all.

[The Pardon read: 'Decimo tertio die Januarii, Anno Regni, &c.']

L. C. J. This does not do it.

Att. Gen. Yes, my lord, it does.

L. C. J. Is that the Newgate pardon?

Att. Gen. Yes, my lord.

L. C. J. We have had it in the court.

Att. Gen. Yes, my lord.

L. C. J. And felony and outlawry is in it.

Att. Gen. Yes, my lord.

L. C. J. Where is that for which he was burnt in the hand?

Att. Gen. For that we give an answer; he was received to the benefit of his clergy; and he was burnt in the hand, and his pardon is after that too.

L. C. J. So it is.

Att. Gen. Then his pardon answers them all.

L. C. J. Now you see, my lord, you think Dangerfield ought not to be a witness, who hath gone through so many punishments, outlawed for felony, and burnt in the hand for felony: Mr. Attorney makes answer, We have a pardon, and by that he is restored, as he says, to be a witness again. If you desire counsel to speak to this point, Whether or no a man branded and burnt in the hand for felony, and afterwards is pardoned, is capable of being a witness? I see no reason to deny it you.

Att. Gen. If there be matter for counsel to speak, in that case we must submit, if your lordship make it a doubt—

L. C. J. I do for my own part: In this I am clear; if a man were convicted of perjury, that no pardon will make him a witness, because it is to do the subject wrong. A pardon does not make a man an honest man; it takes off reproaches; and the law is wise in that, the law will not suffer endless contumelies to be heaped upon men, nor to be called perjured rascals,

and such things; it is only to prevent upbraiding language, which tends to the breach of the peace. But, in my opinion, if a man stands convicted in court for perjury, no pardon can ever make him a witness, and set him upright again. But that is a different case from this; we are upon this single case, Whether a man that is burnt in the hand for felony, whether a pardon can set him right or no? For this I make more doubtful than the other; for a man, may be, that hath committed a robbery, would be afraid to forswear himself; for though one is a great, the other is a greater sin, and that in the subject matter; which considered, I think it reasonable to allow my lord counsel to speak to that single point, That a person being burnt in the hand for felony, and afterwards pardoned, Whether he is capable of being a witness?

Pris. Then I do name Mr. Jones, Mr. Saunders, and Mr. Darnal.

L. C. J. Very well.

[Mr. Sanders was called, but was not in court.]

L. C. J. Are you prepared, Mr. Jones, to speak?

Jones. No, my lord.

Just. Jones. My lord, do you accept against that one particular.

Pris. I stand upon both, his being pilloried and burnt in the hand.

L. C. J. Will you admit that he stood in the pillory?

Att. Gen. I know nothing of it.

L. C. J. I will tell you, my lord, you will see whether it be necessary to protract this or no; for your council will hardly undertake to argue unprepared about this point; and if the trial should be adjourned, it would be very troublesome. I think it the duty of my place to discharge my conscience for you and against you, as the matter shall fall out; and if so be that you should insist upon it, and he be capable of being a witness, supposing it so, yet I must say you may give in the evidence of every record of the conviction of any sort of crimes he hath been guilty of, and they shall be read. They say last day there were sixteen; if there were an hundred they should be read against him, and they shall all go to invalidate any credit that is to be given to any thing he shall swear.

Pris. My lord, I humbly submit myself to your lordship; sixteen we have, I bring but six, you shall have them, Mr. Attorney, when you please.

L. C. J. My lord, if you think it worth your while to put it to counsel to argue, Whether he may be a witness, or whether you think it may be as well for you, supposing he be a witness, the producing those things against him, or the records of those crimes that he hath been convicted of; whether that will be as well for you or no, I leave it to yourself to do as you think best.

Mr. Darnal. I conceive with submission to your lordship, that he cannot be a witness.

L. C. J. Are you prepared to speak to it now?

Mr. Darnal. My lord, I am ready to offer somewhat to your lordship, why I conceive he ought not to be sworn: but I desire first, that the pardon may be read, because many persons and offences are comprized in it.

L. C. J. It is a pardon for felonies and outries of felony in general.

Mr. Darnal. If the persons and their offences are severally and sufficiently pardoned, then my lord, I will proceed unto the other point.

Just. Jones. The whole is good.

Mr. Darnal. Then, my lord, I conceive, notwithstanding this pardon, Mr. Dangerfield ought not to be sworn; and that no person attainted of felony (though pardoned) can be a witness. My lord, it hath been adjudged in 11 Hen. 4. *quadragesimo*, That a man attainted of felony (as Mr. Dangerfield is) though he be afterwards pardoned, cannot be sworn of a jury. My lord, the same question hath been resolved since, in *nono Jacobi*. It is reported in Mr. Brownlow's and Goldsborough's Reports, *Folio tricesimo quarto*. And my lord Coke in Mr. Bulstrode's second Reports, 154. in Brown and Crashaw's Case, is of the same opinion. He says, A man attainted and pardoned cannot serve upon any inquest; and that by the same reason, the testimony of such a man for a witness is in all cases to be rejected.

L. C. J. Who says so?

Mr. Darnal. My lord Coke.

L. C. J. Men do not slight my lord Coke; where do you say that is?

Mr. Darnal. It is in Mr. Bulstrode's 2d Reports, in Brown and Crashaw's case, fol. 154.

Just. Jones. But you should have brought these books hither.

Mr. Darnal. I suppose, Sir, they may be had in the Hall. My lord Coke gives this reason for it in that case; he saith, notwithstanding his pardon, he is not '*probus et legalis homo*.'

Just. Jones. That pardon was before any judgment; it was a pardon of felony before any trial or judgment; but here is a conviction.

Mr. Darnal. My lord Coke puts the case there of a man attainted. And, my lord, in *duodecimo Jacobi*, it is reported in Brownlow's Reports, fol. 47.

Just. Raymond. Which of his reports?

Mr. Darnal. I know but of one set out in his name alone, the other (which is called the first part) is set out in his and Goldsborough's name. I have Mr. Brownlow's Reports here, and if your lordship please you may see it.

L. C. J. What is the page?

Mr. Darnal. 47, my lord; the case there reported is, The king pardoned a man attainted for giving a false verdict; yet he shall not be at another time inpannelled upon any jury; and the reason given there is, that though the punishment was pardoned, yet the guilt remained.

Just. Jones. That is a very short note, and not so much in the book as you have mentioned.

Mr. Darnal. I writ it word for word out of

the Book, Sir, and I am sure there is so much in my book. My lord, in Mr. Just. Crooke's Elizabeth, fol. 686, in Shelborn's Case, it is held, that though the king may pardon Simony, yet he cannot enable a Simoniac to retain a living.

L. C. J. The act doth make him not capable.

Mr. Darnal. I conceive, Sir, it is upon the same reason, because the pardon cannot take away the guilt, though it may the punishment of the offence.

Just. Raymond. He cannot dispense with Simony, he cannot give a dispensation to take a living.

Mr. Darnal. My lord, upon these resolutions and the reason of them, I humbly submit it to your lordship, whether Mr. Dangerfield (having been attainted of felony, though he be since pardoned) can be a witness.

Att. Gen. My lord, with your lordship's favour, this is quite contrary to the constant and general opinion, and contrary to the constant practice: For, my lord, with your lordship's favour, when a man is pardoned for any crime, if a man cannot say he is a felon, or he is perjured, then he cannot be reckoned so to any intent or purpose whatsoever.

L. C. J. I told you before, it is consonant to all the reason and law in the world, that a pardon should stop men's mouths from reviling speeches that signify nothing; but it is one thing to say men shall not go reviling, that can have no consequent good, but which tends to the breach of the peace, and another thing to say he shall be *liber*.

Att. Gen. My lord, when the king gives him a pardon, it is as if he had never committed the offence.

L. C. J. He may be outlawed notwithstanding the king's pardon, and then it is not as if he had never committed the offence.

Just. Jones. It restores him to wage battel, and it makes him '*liber et legalis homo*.' For if a man may wage battel, he is '*liber et legalis homo*.'

Att. Gen. Then, my lord, if he be so, he shall be a witness: For, my lord, in the point of perjury, a man that after a conviction of perjury had a pardon, hath been admitted several times.

L. C. J. Was the exception taken, Mr. Attorney?

Att. Gen. Yes, my lord, and he rejected before he had a pardon.

Just. Raymond. How many men have been witnesses that have been convicted of felonies, after the kings have pardoned them?

Recorder. I will not adventure to say that there hath been a particular objection made, and so that the court hath had the debate of it; but I will undertake to give your lordship several instances of men that have been convicted, and the judges sitting there knew them to be so convicted, and did not take notice of it.

Just. Raymond. I speak of Witherington particularly.

Recorder. He was a witness, though every man did know that Witherington was convicted. I beg your lordships leaves to speak it, that the Judges themselves did know that he was convicted and had received sentence of death.

Solicitor General. (Sir Francis Winnington.) The constant practice of the judges is a mighty conclusion.

L. C. J. What think you, Mr. Attorney, if a man be convicted of felony, and afterwards hath a general pardon, is he a witness?

Att. Gen. Yes truly, my lord, it signifies the same thing, my lord, as to be a freeman again.

Just. Jones. He cannot be of a jury, if he be attainted of felony; and the reason is, because he is not 'probus et legalis homo;' and why he should not as well be of a jury as a witness I cannot understand.

Att. Gen. There is a great deal of difference, my lord; a great many men may be admitted to be witnesses, that cannot be admitted to be jurymen.

Just. Jones. Shew me any man that is excluded from a jury and admitted to be a witness, except in the case of kindred.

Att. Gen. An hundred.

L. C. J. Shew me any man who being of a jury was excluded, and yet made a witness.

Att. Gen. A villain was not admitted to be a jurymen, but a villain was always to be a witness, and that was a point of infamy.

L. C. J. What infamy was contained in being a villain?

Att. Gen. He was a criminal, he was not *liber homo*.

L. C. J. But though he be not a freeman, he may be an honest man.

Recorder. My lord Hobart says, A pardon takes away the guilt.

L. C. J. It takes away guilt so far as he shall never be questioned; but it does not set a man as if he had never offended. It cannot in reason be said, a man guilty of perjury is as innocent as if he had never been perjured.

Att. Gen. I say, if a man be pardoned, he is as if he were not guilty.

L. C. J. If I were in my lord Castlemaine's case, I would submit it; but when he hath given his testimony, my lord shall have liberty to give in the records against him of what crimes he hath committed.

Just. Jones. I do confess, indeed, that my lord Hale, in his little book "Of the Pleas of the Crown," saith, that a man that hath had the benefit of his clergy is restored to his credit.

Just. Raymond. If that case be allowed, it is a plain case; for there is no man can wage battel, but he that is 'liber et legalis homo.'

Recorder. A man broke prison, and therefore he could not wage battel; he replies, the king hath pardoned me that felony, and thereupon he is admitted to wage battel.

Just. Jones. Where there is no judgment given in the case, and the king doth pardon a man, that doth make a very great difference.

Recorder. In the case of Witherington, my lord chief justice did look upon the records, and

afterwards said he was a good witness, and was admitted.

Pris. If you have law by you, I must consent.

L. C. J. Then you must consent.

Recorder. There are several persons who have had pardons after robberies, and we are forced to make use of some of these fellows.

L. C. J. Before conviction.

Recorder. No, after conviction, my lord, I have known a prisoner at the bar, when my lords the judges have been there, to be a witness; and if the court had made any doubt, it would have been a question before this time of day.

Att. Gen. My lord, if you please, Mr. Dangerfield may be sworn, if your lordship pleases.

L. C. J. My lord shall have the benefit of accepting against his credibility.

Then Mr. Just. Raymond went down to the Court of Common Pleas, to know their opinion.

Just. Jones. Have you any other witness in the mean time?

Att. Gen. No, my lord, he is a principal witness.

Sol. Gen. Besides the common practice, here is a book that says he shall wage battel.

Just. Jones. That is, when there is a pardon before conviction.

Sol. Gen. But here, my lord, he says the *Reatum* is taken away, and then it takes away his disabilities too. The difference can be nothing here before conviction, and after; because before conviction he is disabled from waging battel: So that that makes no difference before conviction, and other cases after conviction; and the disability is taken away by the pardon, and he is restored to be a freeman.

L. C. J. There is a disability upon presumption, though not upon conviction.

Sol. Gen. There is the same legal impediment in the one as in the other; but his credit is left to the breast of the jury.

Recorder. When a pardon comes, it takes away not only *Pœnum*, but *Reatum*; and the reason my lord Hobart gives is——

L. C. J. Nay, give your reason.

Recorder. For felony is 'contra Coronam et Dignitatem,' is a fault against the king; and when the king pardons it, it ceases. And in another place it is said, It pardons all disabilities incident to him.

Just. Jones. That is before conviction, still.

L. C. J. Does not my lord Coke tell you expressly, that the taking a pardon doth not prove any offence? You take a pardon, it might not to be concluded that you are guilty; but the proper conclusion of a wise man is, that you would be safe. It cannot be thought that every man that hath a pardon in England is guilty of all those offences that are there pardoned.

Just. Jones. There is a difference between a general pardon, and a particular pardon: When a man doth accept of a special pardon, it must be intended that he hath some consci-

ousness of guilt, or else he would not take it; but he that is included in a general pardon may be clear, because all men are included in it, unless some persons particularly excepted; and the difference is taken in that very point, from accepting a general and a special pardon.

L. C. J. That the acceptance of a general pardon doth not barely of itself intend men to be guilty of the crimes, is plain, and the reason is most apparent; for besides that men be safe, so there be times that give a reason why men should have a pardon, because no man knows when he is safe: perjury so abounds that no man can say he is safe, and that is a reason why men should be very willing to accept of pardons.

Cl. of Cr. Here is my lord Hale's Book about the Pleas of the Crown.

Recorder. He says, When the king hath discharged and pardoned him, he hath cleared the person of the crime and infamy.

Just. Jones. It is so, no doubt.

Sol. Gen. May we pass upon these authorities?

Just. Jones. Sir Francis, we are not willing to go about it till it be concluded; for that purpose we have desired my brother Raymond to know the Judges Opinions of the Common-Pleas.

Recorder. He doth expressly say, It hath restored him to his credit; and in Witherington's case he did call for the very records.

Att. Gen. If it restore him to his credit, I hope it shall not blemish him so much when he is sworn, that he shall not be believed.

L. C. J. We will not have any prepossession in that case, his crimes shall be all taken notice of; is it fit to have men guilty of all sorts of villainies, and not to observe it?

Just. Jones. In that very case my lord Hobart says, A man may say of a pardoned man, he was a felon, though he cannot say now he is a felon; and now what can be objected to this case?

Recorder. Things may be objected against a person, and his credit left to the jury; but the question now is, Whether he shall be a witness or no?

L. C. J. We have men grown so insolent, they behave themselves with that vile insolence, that now they take upon them to speak against whole societies of men: as if so be there were any thing in them that should render them better than their former lives or natures. Humility becomes penitents, and no wicked man is supposed to be a penitent that hath not that; but these carry it with that insolency, as if they were not concerned themselves, when God knows the best of them discover what they do, by being but parties themselves.

[Mr. Justice Raymond returned from the court of Common-Pleas.]

L. C. J. I will tell you what my brethren's opinions are; he hath put it to them on both accounts, That he was convicted of felony, and burnt in the hand for it; that he was outlawed

for felony, and hath a general pardon. They say they are of opinion, That a general pardon would not restore him to be a witness after an outlawry for felony, because of the interest that the king's subjects have in him. But they say further, that where a man comes to be burnt in the hand, there they look upon that as a kind of a more general discharge than the pardon alone would amount to, if he had not been burnt in the hand. They say if he had been convicted of felony, and not burnt in the hand, the pardon would not have set him upright; but being convicted and burnt in the hand, they suppose he is a witness*.

Sol. Gen. Swear Mr. Dangerfield.

L. C. J. The very attainder is taken away, and so all is gone.

Att. Gen. Come, Mr. Dangerfield, are you sworn?

Dangerfield. Yes, sir.

Att. Gen. Pray tell what you know of my lord Castlemaine.

L. C. J. I perceive my brethren's opinions is, That if a man were convicted of perjury, if there be no burning in the hand in the case, that a pardon could not set him upright, because of the interest of the people in the thing.

Att. Gen. Come, Mr. Dangerfield, are you sworn?

Dangerfield. Yes, sir.

Att. Gen. Then pray say what you do know of my lord Castlemaine.

Dangerfield. About this time twelvemonth, my lady Powis sent me with a letter for the prisoner at the bar, my lord Castlemaine.

L. C. J. Don't you know him?

Dangerfield. Yes, my lord, this is the person. And, my lord, the contents of that letter I know not: but his lordship made me stay till he wrote an answer, and the contents of the answer, my lord, were to this effect: for I returned with the answer to the lady Powis, and she opened and read it while I was present.

L. C. J. Aloud?

Dangerfield. Aloud, my lord.

L. C. J. To you?

Dangerfield. To me.

L. C. J. Who was there?

Dangerfield. Mrs. Cellier was there besides. And the contents of this letter were, 'This person I like well, and though he be no scholar, he will serve to instruct the youths as he shall be directed.' By the youths were meant the St. Omers witnesses.

L. C. J. How do you know?

Dangerfield. Because I know my lord was employed for that purpose. I know his lordship did use to instruct the youths; and it was a common saying among them, when one of them was out of his part, they used to say, I must go to my lord Castlemaine.

* See the objection which was taken in this Case to Dangerfield's admissibility considered in different places in Mr. Hargrave's Argument on the effect of the king's pardon of perjury, cited in a note to Cellier's Case, *ante*, p. 1052.

L. C. J. What part?

Dangerfield. That which they were to say; and one of them did say, I am out of my lesson, I must go to my lord Castlemaine.

L. C. J. When did he say so?

Dangerfield. Before the trial, my lord; and my lord Castlemaine went along with them to the trial, and his lordship complained of some ill usage that the witnesses received there. His lordship was one of the persons that employed me to get Lane out of the Gate-house, my lord, and his lordship sent me to a solicitor of his, whose name was Mr. Lawson (the person is now in court), to take an account how far he had proceeded in this affair. I did take an account, and I proceeded in it afterwards, and got him discharged.

L. C. J. How came you into my lord's acquaintance?

Dangerfield. That was the first time, when my lady Powis sent me with that letter, my lord. A pretty while after this, in the month of July I went to wait upon his lordship at his house at Charing-Cross, the same place where I found his lordship before; and I was to take his advice about some letters that came from one Nevil alias Paine. Those letters and lists of names I shewed his lordship, and he gave his approbation of them, and desired good store of copies might be writ: for it was of consequence, and ought not to be neglected. And asked me, are there working persons employed in that business? and said he, encourage them, and I will pay my part. So my lord, after there were a great number of copies writ of these letters, I writ a letter to my lord Castlemaine to let his lordship know that the people had finished their work, and that there was something more to be done as a gratuity; and then his lordship in answer to this messenger (who is here also in court) with a letter his lordship sent 40s. for his part. And Mrs. Cellier told me she received 40s. and disposed of it to the use intended; now, my lord, the contents of these letters were to the same effect with those letters and loose papers which I conveyed into colonel Mansel's chamber; and these all tended to the promoting the sham Plot, my lord.

L. C. J. Pray tell me what was the subject of these letters; what was the substance of them?

Dangerfield. To the promoting the Sham-Plot, my lord.

L. C. J. That is a general nobody knows what to make of.

Dangerfield. I will give your lordship an account in particular: the contents of many of them were to this purpose.

L. C. J. Were they not all alike?

Dangerfield. The copies were the same, and there were so many originals to draw copies from.

L. C. J. Were not the originals all to the same purpose?

Dangerfield. Agreeable in point of sense.

L. C. J. Pray tell us the purpose of them?

Dangerfield. The purpose was, that so many letters should be conveyed into the houses of several persons of quality in this kingdom, that were called Presbyterians: For that was the notion, that all persons that were not the immediate promoters of the Catholic interest, lay under; because they looked upon that notion to be most obnoxious.

L. C. J. Who and where?

Dangerfield. In general, my lord.

L. C. J. In general, where?

Dangerfield. By my lady Powis, and the lords in the Tower.

L. C. J. Were you by when the lords in the Tower did agree to it?

Dangerfield. When my lord Petre and my lord Arundel did.

L. C. J. What did they agree to?

Dangerfield. My lord, the thing is this: after they received an account from one Mr. Paine, I brought a billet from that Paine; wherein was contained a ground or scheme of the Presbyterian-Plot; so from thence it derived it's first name, my lord: so that when I came to discourse with the lords in the Tower about it, they called it the Presbyterian-Plot; and Mrs. Cellier and the lady Powis said, this is a notion that will do the business, as it is most obnoxious, and as best to our purpose.

Just. Jones. How far was my lord Castlemaine concerned in this?

Dangerfield. I have not heard his lordship speak of it under that notion.

L. C. J. Pray let us hear what you can say against my lord Castlemaine.

Dangerfield. Now, my lord, some considerable time after I had gotten Lane out of prison, I was employed by several other persons, his lordship was one, and he sent me to his lordship's solicitor, that is now in court. A pretty while after this, and the letters and lists of names, containing matter to the same effect as I told you before, as those in Mansel's chamber, and all tending to the credit of the Sham-Plot, or the Presbyterian-Plot: Now, my lord, a pretty while after this, in August, as near as I can remember; about the middle of August, I went to wait upon his lordship the very next day after I had been treated withal in the Tower to kill the king, whom God preserve, my lord; and his lordship had a servant then in the room, and he sent his servant down stairs, and looked upon me with a very austere countenance: said he, why would you offer to refuse the business for which you were taken out of prison?

L. C. J. To you?

Dangerfield. To me, my lord.

L. C. J. Who was by?

Dangerfield. Nobody but his lordship, and myself; for he sent his servant out before: so he asked me, why I would offer to refuse the business I was taken out of prison for? I asked his lordship, what that was? said he, was not you at the Tower yesterday? yes, my lord, I was. Would your lordship have me kill the king, I suppose that is the business? Yes, that

is, said he. Upon which my lord fell into such a fury, that I was forced rudely to leave the room, and went down stairs. I think at the same time his lordship was writing the compendium of the late plot; for there I saw some words in a paragraph that lay upon the table, which I afterwards saw in that book. There was ink set upon the table, and open in his lordship's hand. And his lordship did use in his discourse to call his majesty tyrant.

L. C. J. Have you heard him? in what company?

Dangerfield. In his familiar discourse. As to ask when his majesty will return from Windsor? says he, when the tyrant pleases. And I remember I heard his lordship mention the word tyrant to Mrs. Cellier at Powis-house.

Att. Gen. How came that discourse about killing the king? what was the occasion of that discourse?

L. C. J. Had you refused it to my lord?

Dangerfield. Yes, my lord, I refused.

L. C. J. What did you say to him?

Dangerfield. I said, Any body but my king, my lord.

L. C. J. He said, why did you refuse to do that for which you were taken out of prison? what is that, my lord? was not you at the Tower yesterday? why won't you do it? what is it, my lord? is it to kill the king? I suppose that it is, saith he, that your lordship intends. Yes, says he, that is it, why won't you do it? that is what he says.

Att. Gen. That is the evidence we give.

Just. Jones. You say he was very violent?

L. C. J. Was you ever in his company afterwards?

Dangerfield. No, not after that, my lord, that I know of.

L. C. J. What kind of fury did he shew you at that time?

Dangerfield. My lord, he was in a great rage, as his lordship is very choleric; he was bustling about, and I knew not what he intended to do, and I was unwilling to stand the test of his anger. His lordship seemed by his look to be meditating revenge.

L. C. J. How?

Dangerfield. I say this, after his lordship had sent his servant out of the room, said he, why would you offer to refuse the business for which you were taken out of prison? said he, were not you at the Tower yesterday? said I, yes, my lord, I was. Would you have me kill the king? is that the business? Yes, that it is, said my lord very angrily.

Pris. When did you go to the Tower? was this the next day after it?

Dangerfield. The next day after it.

Pris. Pray let me ask you one question. Did not I threaten to kill you, or have some of my servants kill you, if you came unto me again?

Dangerfield. One time his lordship saw me at my lady Powis's house and he shewed me a very particular favour. I speak it in the pre-

sence of Almighty God, nothing out of revenge, nor for any sort of interest.

Pris. Was I never angry with you but at that time?

Dangerfield. No, my lord, I know not of any other time that your lordship was angry.

L. C. J. Now, what say you, my lord?

Pris. The first thing I desire to do is, here are two gentlemen give in evidence against me, the one is Mr. Oates and the other Mr. Dangerfield. Mr. Oates says, That he in Spain did see several letters from me: That when he came over into England, he brought a letter from Spain to me, that that letter was given to the provincial, and the provincial (he supposes) gave it to me. Now, my lord, I only desire this, that the first thing that shall be done, is, that you will please to call Mr. Parker, who will shew you what a kind of man Mr. Oates is. And I am glad, since you say that Mr. Dangerfield is a good witness, that I can prove that every word he says is a lie. And so begin with Mr. Oates.

Pris. I would offer you a Record, a Record of some particular actions from Hastings.

L. C. J. Read the Record.

[The Record read.]

L. C. J. What use can you make of this?

Pris. My lord, the case is only this, my lord, I will tell you, here is Mr. Oates, this is only to shew what kind of man this Mr. Oates is. Mr. Oates he comes and accuses a man at Hastings for buggery, there he is indicted and comes to his trial, and then he is found innocent: Now, my lord, I sent for this Mr. Parker, to tell your lordship what kind of man this Mr. Oates was, and for that purpose shew the whole proceeding.

L. C. J. My lord, you shall have all the justice in the world; but we must have right done to the king's evidence. You have brought in a thing, whereby all you can make against Mr. Oates is this, that he was the prosecutor of a man for the crime of buggery, and is supposed to have taken his oath there, and notwithstanding the jury would not believe him, and found the man Not Guilty.

Pris. My lord, I come to shew you the motives how the jury came to clear him, that is, by proving this man was in another place at that time, and satisfied the court and jury, that he was from eleven o'clock or sooner, till eight or ten o'clock with them in company; where it was only the malice that was between Oates and Parker; and several witnesses that were in the place where he said the buggery was committed, said that he was not there; and the witnesses positively said they were with him, and all looked upon Mr. Oates as a detestable man, and sent him out of the Court.

L. C. J. Do you prove this by any but Parker?

Justice Raymond. This ought not to be admitted; for if it be, Mr. Oates stands here to answer all the faults that ever he committed.

L. C. J. Here is the case: Supposing it be

true now, that Mr. Oates prosecuted a man for felony, and he gave testimony, supposing it should be so, and yet the jury acquitted him; what use can you make of it? You can make no inference; it is a thing we must allow all the juries in England: for there is witness generally given on both sides; and when there are for the plaintiff, the defendant's evidence are all perjured; and when for the defendant the plaintiff's evidence are perjured.

Pris. My lord, this is the inference. Thus much I make of it, that this Parker is innocent. Oates swears positively he did so, the other swears positively this man was not there; to shew the malice Oates had against him.

L. C. J. My lord, you can go no further than you have gone. The result of all is, that the jury found him Not Guilty; for what grounds no man can come to say, but the jury-men themselves. No man can tell what prevailed with the jury to find him Not Guilty, that is in their own consciences, and these are things that cannot be examined. His jury, notwithstanding Mr. Oates was the only prosecutor, they found him Not Guilty, and it amounts to nothing.

Pris. My lord, there is another thing: while this man was in prison, what does Oates do, but comes here to London, accuses the father, who was a considerable man in the town, a justice of the peace, and mayor the year before; accuses him because he should not assist his son; accuses him before the king of speaking scandalous words; then he gets him by a messenger brought up before the council: The king was present at the hearing, and there it was proved to the king, as the order of council shews, that he was an honest man, and so the council sent Oates away with the greatest contempt, and freed the other man.

L. C. J. Was this before the Plot was discovered?

Pris. Yes, my lord, in pursuance of it.

L. C. J. You said it was that he should not help his son, his son was not free.

Pris. No, he was in prison, my lord.

Recorder. My lord may think it hard if he hath not some competent liberty; but he must keep to the business. You say, that notwithstanding he hath the opinion of the Court, that the jury must take notice; then the jury must take notice it signifies nothing.

Pris. Very well. Having told you this, I desire you would be pleased to take notice, after Oates was thus forced to run away from Hastings, here it seems he was converted to be a Papist, by a person whom Mr. Oates hath since converted to be a Protestant; and you shall see what an account this gentleman will give of him.

L. C. J. What is his name?

Pris. Hutchinson.

L. C. J. What will you do against him?

Pris. Several things, my lord.

L. C. J. You must not do it: If you are able to disprove Mr. Oates in any of these particulars, you may do it. If you alledge testi-

mony against the particular matter he hath sworn, you will do very well; but pray, my lord, keep to that.

Pris. I will, my lord; I will submit any thing to your lordship's commands; and therefore, my lord, I will tell you for what reason I sent for this man, to tell you how Mr. Oates went to Spain, and how he lived in Spain.

L. C. J. If you can shew the jury any reason why they should not believe his evidence, that will be very proper.

L. C. J. What is your name?

Hutchinson. My name is Hutchinson.

Pris. Mr. Hutchinson, pray say what you have to say, and not follow Mr. Oates's method: I only ask you this question, Sir, whether you did convert this man, that is, reconcile him to the Church of Rome?

Hutchinson. Yes, my lord, that I did.

L. C. J. You ought not to ask him such questions, you bring him in danger of his life; you are not to ask him such questions.

Recorder. Let us see the Statute-Book.

Cl. of Cr. It is High Treason.

L. C. J. You thought this had been meritorious now, and it is High Treason.

Recorder. This it is to abound in a man's own sense. We must beg your lordship's advice in this.

L. C. J. Are you a Protestant now?

Hutchinson. Yes, my lord.

Pris. He was a priest, and confesses his error.

L. C. J. Did you know Oates first in Spain?

Hutchinson. No, my lord, I knew him first here; and we were in company, and I told him he could not be a true priest, since he was of the Church of England.

Att. Gen. He offers such things as are not evidence.

L. C. J. Pray what do you know of his employment in Spain?

Hutchinson. I received letters from him when he was in Spain. He went over to study philosophy and divinity there, and I saw his commendations to the rector of Liege.

L. C. J. Did you see him?

Hutchinson. Yes, my lord, I did see him before he made this disturbance.

L. C. J. What disturbance? Do you know? What discourse had you with him?

Hutchinson. I employed him in writing for me.

L. C. J. Writing what?

Hutchinson. In writing certain things against the corruption of the Church of Rome. He had 10s. I gave him, and this was before the discovery he made (as he pretends) of the Plot. And he told me he would suffer no more for conscience-sake: it is an hard thing, said he, Mr. Berry, for a man to want bread; upon which I gave him 10s.

L. C. J. He says, having been formerly with Mr. Oates, he employed him to transcribe many things for him; and Mr. Oates said to him, 'He was resolved no more to suffer for conscience sake. How, saith he, not so? Oh, but,

Mr. Berry, said he, it is a very sad thing to want bread.' And upon that, he says, he gave him 10s. for his pains in writing.

Hutchinson. And hereupon, my lord, in May was twelvemonth he sent for me, when I heard he had done some more mischief; and I went to him, my lord.

L. C. J. That was after the discovery?

Hutchinson. Yes, my lord, upon that he was very kind to me, and gave me 20s. Said he, Mr. Berry, you have been civil to me, and you shall never want any thing so long as I have it. Said I, Mr. Oates, are these things true that you swear against the jesuits? Said he, As I hope for salvation they are. And that was the truest word he spake these three years. Then, said I, Mr. Oates, answer me this only one thing. There are 120 persons that saw you every day, and dined and supped with you at St. Omers, and these you have recommended to me for virtuous people, and I know them to be so. He said, They are outlawed men.

L. C. J. What did Mr. Oates say more?

Hutchinson. He was with me frequently, my lord.

Recorder. He paid your Angel well when he gave you 20s.

Hutchinson. Mr. Oates, speak the truth: there is a God in heaven.

Oates. Shall I be allowed to satisfy the court as to this evidence? I will give the court a very good account.

L. C. J. The substance is this; that you were poor. Is it true that he gave you 10s.?

Oates. My lord, I believe I might not have much money among them.

L. C. J. And you said, You would suffer no more for conscience sake?

Oates. That is not so, my lord.

L. C. J. And, That it is an hard thing to want bread?

Oates. My lord, I never wanted bread.

Hutchinson. But you said so to me, Mr. Oates.

Att. Gen. Hark, Mr. Hutchinson——

Oates. To shew the invalidity of this evidence, my lord, the bishop of London hath turned him out of his living at Barkin.

L. C. J. What is that?

Oates. To shew that he is not fit to be trusted.

L. C. J. Why, you have never a living.

Oates. Yes, I have, my lord.

L. C. J. Where?

Oates. In Kent, my lord.

L. C. J. How long have you had it?

Oates. I was restored to it last summer.

Recorder. He says that he had discourse with him concerning his priesthood; whether Mr. Oates thought himself to be a good priest; that is, as he was made by the order of the Church of England?

Att. Gen. He says, He converted Mr. Oates to be a papist.

Oates. And I have a charge of high-treason against that man, for seducing me from my religion, my lord; I will swear he turned me to

the Church of Rome, and I desire it may be recorded.

Dr. D. I have one thing to tell your lordship, the man is mad, he is distracted.

L. C. J. This doctor of divinity is a very honest man, he will tell you.

Dr. D. He was my curate at Barkin, and my lord of London having some information against the manner of his preaching, sent me word to Rippon he would provide me another curate; on Saturday last, dining with him, my lord told me he was distracted.

Recorder. His behaviour is a very concurrent testimony.

Justice Raymond. I appeal to my lord, if I did not tell him, as he came into the court, that he was a distracted man.

L. C. J. Call another witness.

Pris. Here is a gentleman was his school-fellow at Valladolid. I ask you, Mr. Armstrong, Whether you knew any thing of Mr. Oates there?

L. C. J. How long had he been there?

Armstrong. He was three months there before me.

L. C. J. How long was he there in all?

Armstrong. A matter of a month.

L. C. J. Was he not there four months.

Armstrong. Yes a matter of four months in all.

L. C. J. He says, he had been there three months before he came, and a month after he came; and that then he was but a common scholar.

Oates. My lord, I will satisfy the court when they question me.

L. C. J. In what would you satisfy us?

Oates. About being a scholar. I was ready to commence when they came; but being they were strangers in the town, not being town-scholars, and not undertaking philosophical dictates, the fathers did pray me to shew them the way to school; and I went with them two or three times.

L. C. J. Call another, my lord.

Pris. Mr. Palmer and Mr. Doddington.

L. C. J. Did you know Mr. Oates at St. Omers?

Palmer. Yes, my lord, and he was an ordinary scholar there, and dined and supped with us.

L. C. J. You said he dined at another table.

Palmer. Yes, my lord, he did dine at a table by himself, but it was at the same time.

Oates. Had I scholars commons? pray, my lord, ask them that.

Palmer. He had the same commons that we had; but they had a respect for him, as he was an ancients man, and that was the reason that he had more freedom than the rest.

Pris. My lord, he says he came from St. Omers at the consult: Pray, Sir, who did you come along with? Did you come with Hilsley?

Oates. Hilsley came with me in the packet-boat.

Pris. Call Mr. Hilsley and Osborne. My

lord, this gentleman—I would bring nothing to offend your lordship, or nothing that hath been old, if it had not some new inference from it; therefore, my lord, this is the reason that I sent for Mr. Hilsley. Mr. Hilsley, did you come with Mr. Oates in April in the packet-boat?—*Hilsley*. No, my lord.

Pris. You left him at St. Omers?

Hilsley. Yes, my lord.

Pris. Now, my lord, I have several witnesses to prove this. And pray, Mr. Osborne, tell my lord what he said to you.

Osborne. My lord, about the latter end of April I heard Mr. Hilsley was in town; I went to see him, and one time at a coffee-house about the Turnstile we fell in discourse.

L. C. J. My lord, you say you have two persons of quality: I will tell you, my lord, what you shall expect; I will not be for one, and not for the other; but be equal as near as I can. If he comes only to testify what Hilsley told him it signifies nothing.

Pris. I do depend upon Hilsley; but this is that Hilsley told him, that there was one Oates at St. Omers.

L. C. J. That is no evidence, nor can ladies of quality prove by their own experience what Mr. Hilsley affirms that Oates came not over with him.

Pris. My lord, they can tell; and one lady, a protestant, that talking with this gentleman before the plot——

L. C. J. This is only discourse what another man says; if Mr. Oates himself should have said so; then indeed it is proper: But to shew you this, it is impossible, supposing they speak truth; that is, if they do witness what they do not, that long before they heard of the name of Oates, this gentleman should tell them, one Oates was left at St. Omers; it signifies nothing.

Pris. Does not that confirm Mr. Hilsley's testimony?

L. C. J. No, indeed.

Pris. I only refer this to you, my lord; Hilsley says, in April he did leave Oates, and here are four or five witnesses that Hilsley told them so.

Justice Jones. All that my lord says, is this, that he did leave Mr. Oates at St. Omers. If it be objected, they are catholics, as they call them; says my lord, Hilsley did tell his story before there was any plot. Why should he tell them so? It is not in favour of that religion that he speaks; but the time of testifying such a thing shows he speaks true. This is all.

Pris. This is the inference; this is only to corroborate and shew you the credit of his testimony.

Justice Raymond. It may be a mistake, though, and it is of no more force than what he says now.

Att. Gen. They were all mistaken in that matter.

Oates. My lord, he did leave me at St. Omers, but I overtook him at Calais.

L. C. J. Will you swear it, Mr. Oates?

Oates. I say, upon my oath I did it.

L. C. J. It were a great matter if you had any body to prove, that this gentleman came alone; but that is still but one man's testimony.

Pris. But here is confirmation to his evidence that he could not invent it.

Att. Gen. You had 16 once, but the contrary was proved and believed, and so it may be again.

Pris. Call Mr. Gregson and Mr. Rigby. Mr. Gregson, were not you landlord to Mr. Oates, before the plot was discovered? How long before the plot did he lie at your house?

L. C. J. What time?

Gregson. A week before Easter, 1677.

Justice Raymond. When did he go away from you, sir?

Gregson. The Sunday after Easter-day.

Justice Raymond. When did you see him again?

Gregson. He came to me about All Saints.

Justice Raymond. The same year?

Gregson. Yes.

Oates. Who paid for my quarters? Pray ask him that, my lord.

Gregson. He paid for it himself.

Oates. Did not Mr. Fenwick pay for it?

Gregson. He did after you came from St. Omers.

Oates. My lord, when I came last from St. Omers, I went directly to his house.

Pris. Was not he in a poor condition?

Gregson. He was then indifferently poor.

Pris. My lord, this is only to prove his condition.

Oates. My lord, I had only what the Jesuits allowed me.

L. C. J. You had nothing but what they allowed you?

Oates. Nothing else, my lord.

Justice Jones. They allowed you a very scanty living.

Pris. Call Mr. Littcott. Mr. Littcott, do you know any thing about a divorce?

L. C. J. What should he know?

Pris. Pray, my lord, don't discourage me.

Justice Raymond. But you must not ask things that are not to the purpose.

Littcott. My lord, it was morally impossible there should be a divorce.

L. C. J. Was there any endeavour by my lord concerning it?

Littcott. There was no such design.

L. C. J. How was that? But pray mind, you will be morally not believed else: Do you know my lord used any endeavours, in order to obtain a divorce?

Recorder. That is all that he says, 'he never knew any thing.'

Pris. I only say this, my lord, Mr. Oates comes here and says, that he heard me say, that I did spend a great deal of money. Now if I satisfy the court that I never spent a farthing towards a divorce——

L. C. J. If he had said, your lordship laid

out sums of money, then it had been an answer to that, if you could prove you had not.

Pris. You know I stand here accused for a great crime; pray give me leave.

Justice Raymond. If it were a matter of moment, we would.

Pris. Pray, my lord, hear me: Here is a man says, I spent a great deal of money about a divorce? I come to tell your lordship, that this very man, before your lordships, and also before the king, and if your lordships have forgot it, I will shew you witnesses that he spake it before the king, and before the house of commons, that I did actually sue out a divorce: Now I will shew, my lord, that I neither could, nor did go about it.

L. C. J. We are not to take notice of that now. If he did say a false thing before the House of Commons, we cannot take notice of it now; for we cannot go to try whether he said so, and whether that be true or false.

Pris. I humbly beg, my lord, if this man that is upon oath hath sworn before the king that he did actually see the divorce, and I prove that it was impossible that he should see the divorce, because it was impossible to get a divorce—

L. C. J. What then?

Just. Raymond. You must not be permitted to prove that, it is not pertinent to the question.

Pris. My lords, with humble submission to you, he hath told me this before your lordships, that I spent a great deal of money about a divorce.

L. C. J. My lord, you will be satisfied, when we have acquainted you what the ordinary proceedings of a court of justice are in matters of this nature: what is and what is not to be admitted. If you should come to prove Mr. Oates had falsely sworn a thing in another court, and five or six witnesses shall come and say it is not true; we are not to hearken to it. The reason is this: First, you must have him perjured, and we are not now to try, whether that thing sworn in another place be true or false: Because that is the way to accuse whom you please; and that may make a man a liar, that cannot imagine this will be put to him: And so no man's testimony that comes to be a witness, shall leave himself safe. And this is another case, if he swore in another place what is contradictory to what he says now; then it is proper. If you could prove that he had sworn in another place that he never saw you, it is very proper: But now to us he says, that he doth not remember whether ever he had seen a divorce, or that you had sued out a divorce. All that he remembers is, that you said you had expended a great deal of money about a divorce, and this is all he testifies here.

Pris. My lord, my evidence against Mr. Oates is this, that he waves what he said before, when I came to ask him, and says, I do not remember. Now, my lord, if he lies in one thing he may in another.

Just. Raymond. No man can remember all the things that ever he did in his life.

Pris. I have witnesses to appeal to, to

witness every thing; and I represent it here to you, that I would with all my heart have indicted him of perjury, but for Mr. Attorney General: For I employed two to attend the clerk of the peace for copies of the indictment against Mr. Langhorn and Mr. Ireland; they did come to the clerk of the peace, saith the clerk of the peace I cannot do it without Mr. Attorney's authority. My lord, saith he, I would give them you with all my heart, but I must have leave from the table.

Att. Gen. No, my lord, I told you I would not give it you without you had an order from the king, and the council did not think fit to give it you.

Pris. I think this a little pertinent.

Just. Jones. How doth any thing that your lordship excepts against in this gentleman's testimony contradict itself? All that you accuse him of is, that Mr. Oates had said he heard you say, you had spent a great deal of money about a divorce.

Pris. I only shew, if you are pleased to hear it, that he reported to the king that he actually saw the divorce.

Just. Jones. That agrees well enough with what he says now.

Pris. He said so in your lordships hearing.

L. C. J. I do not remember it, if I did I would speak of it; I do not remember it, upon my word.

Just. Raymond. I protest I do not remember a word.

Just. Jones. In the court, did he say it?

Just. Raymond. Here we have all three that were present, I protest I do not remember it; but as to the business of the divorce, I might look upon it as impertinent, and so possibly might not mind what he said.

Pris. I only offer this to you; and if your lordships command me to desist, I will desist.

Oates. I desire my evidence to prove that I was in town.

Just. Raymond. Pray, Mr. Oates, you are an evidence, you must be governed by Mr. Attorney.

L. C. J. It would be very fit, Mr. Attorney, to prove that Mr. Oates did come over with Hilsley in the packet-boat.

Just. Raymond. Mr. Oates, I remember very well, gave an account of his coming over; said he, I did come over with such and such persons, and among the rest was Mr. Hilsley. This is only to prove that he was at the consult.

Att. Gen. We can prove it.

Records produced against Mr. Dangerfield.

L. C. J. Here is, that he was burnt in the hand, and outlawed for felony, pilloried for cheating, twice pilloried; and see whether he was whipped or no.

Sol. Gen. I know nothing of the pillory.

Just. Raymond. Here was a record of being burnt in the hand, and a record for putting away false guineas.

L. C. J. For that he was to stand in the pillory.

Cl. of Cr. Here is one record for another shilling gilt.

L. C. J. Was that in the pillory too?

Att. Gen. He was fined fifty pounds.

Cl. of Cr. Here are three in Salisbury for three several guineas, and he was adjudged to the pillory for them all.

Att. Gen. It was all at one assizes, my lord.

L. C. J. My brother tried him.

Cl. of Cr. He was tried before Mr. Just. Jones, and to stand in the pillory for all three.

L. C. J. What have you else to say?

Pris. Call Mrs. Cellier and Mr. Dowdal.

L. C. J. What is your name, sir?

Dowdal. My name is Bennet Dowdal.

L. C. J. What have you to say to him, my lord?

Pris. Mr. Dowdal, the case is this, Mr. Dangerfield tells me I was angry with him at such a time for a business at my house; was I not angry with him at Powis house for going to the lords in the Tower?

Att. Gen. Then he did go about it?

Dowdal. Mrs. Cellier spake to me to speak to Mr. Dangerfield not to be troubled at your anger.

Just. Raymond. When was this?

Dowdal. After the Jesuits died.

Pris. He proves this. That Mrs. Cellier spake to him to pacify Mr. Dangerfield, and Dangerfield did tell him I was angry with him for going in my name to the Lords.

Just. Raymond. He says no such thing, my lord.

L. C. J. You must not ask him what Mrs. Cellier said.

Cellier. This day twelve-month he and I had been employed in writing copies of some letters, and I sent him to my lord to know if he would go something towards the printing them, and he went from him to the lords in the Tower. In an hour and half after, my lord came to me very angry: Mrs. Cellier, said he, I thought you would not forfeit your discretion to send such a rascal to me; if you send him to me again, I will bid my servants kick him. And, said I to Mr. Dangerfield, you are not to note that; for he is a very good man, and may be angry one time and pleased another; and I would have sent him another time, and said he, pray, madam, do not send me thither, I would rather go an hundred miles of your errand.

L. C. J. Dangerfield, That discourse you had with my lord, was it before the Jesuits died, or after?

Dangerfield. What discourse?

L. C. J. When you discoursed about killing the king.

Dangerfield. No, my lord, two months after.

L. C. J. When was the time that these words were spoken?

Dangerfield. When his lordship was in that passion.

L. C. J. When was that?

Dangerfield. My lord, it was about the middle of August.

L. C. J. Was you ever in his company after?

Dangerfield. No, my lord, I saw him once at Powis house.

L. C. J. Had he ever been angry before?

Dangerfield. No, not till this time, my lord.

L. C. J. Here Mrs. Cellier witnesses, that this day twelve-month, my lord was extremely angry, insomuch, that when she would have had you go on an errand, you would not.

Dangerfield. My lord, that time I had been with my lord Castlemaine, I went home to Mrs. Cellier's house, which I did then call my home, and said I, my lord Castlemaine is most violently angry with me.

L. C. J. When was this?

Dangerfield. This was the latter end of August.

L. C. J. But she talks of this time twelve-month.

Dangerfield. It is no such thing, my lord.

Cellier. I said, pray carry this letter to my lord Castlemaine: Pray excuse me, said he, I had rather go an hundred miles than go by his door.

L. C. J. Whereas Dangerfield says, he had this discourse in August, Mrs. Cellier says in June or July; this day twelve-month particularly she gave him a letter, and he said, Pray excuse me, I would go an hundred miles for you; but I would not go into my lord's company again if I could help it.

Pris. My lord, Mr. Dowdal can tell it.

L. C. J. Did he acknowledge to you my lord's anger in the beginning of July?

Dowdal. It was within a week after the Jesuits died.

L. C. J. I do not know that.

Dowdal. It was about the 21st of June.

L. C. J. Here are two Witnesses, one says in June or the beginning of July; says Mrs. Cellier, this day twelve-month he came and told me, my lord was extremely angry with him. And she would afterwards have had him carried a letter: But he said, Pray excuse me, I would go an hundred miles, but he would not go again to him if he could help it. And Dowdal says, he told him about that time of my lord's anger with him.

Att. Gen. Hold your tongue, Mr. Dangerfield.

Just. Raymond. What Jesuits?

Dowdal. The five Jesuits.

Pris. If you please, my lords, I would only tell you this. My lords, you see that these two witnesses testify that I was angry with Mr. Dangerfield in June; my lords, I only say this to you, that when I was examined at the council before the king of this particular, my lord chancellor asked him the particulars of it, and he did confess this thing which I now prove. Now, my lords, I infer this, if I was so angry with him for offering to go to the Tower, when he went to the Tower in my name——

L. C. J. That they have said, that you were very angry.

Dowdal. Dangerfield told me so, that he was angry about his going to the Tower in my lord's name, unknown to him.

L. C. J. Here are two witnesses to prove that my lord was angry with him for going to the Tower in his name; and they both testify he was extremely high, and refused to carry a letter to my lord; and yet he says, in August following he had this discourse.

Pris. I have now only one thing to say what hath passed between Mr. Oates and Mr. Dangerfield.

L. C. J. Do it as near as you can.

Sol. Gen. We have some other evidence to answer this.

Att. Gen. If your lordship please, we will call two or three witnesses to prove the point. First, to prove this last thing, that we have been in my lord's company later than my lord speaks of.

L. C. J. He says August.

Att. Gen. We will prove after that time, that is the time that pinches us.

Pris. My lady Powis is in Court, will you hear her?

Lady Powis. My lord, I never did send a letter by Mr. Dangerfield to any body in my life, nor I never read a letter in Mr. Dangerfield's presence, nor never had him so much in my company to read a letter or any tittle to him.

L. C. J. I will tell you gentlemen, what he says; Mr. Dangerfield swears he carried a letter from my lady Powis to my lord Castlemaine, and there was an answer brought back, and that that answer of my lord Castlemaine's was read before him; and (you will do well to call Mrs. Cellier in again) my lady Powis doth deny that she ever sent a letter by him to my lord Castlemaine, or any body else, by him in her life; or that she ever communicated any letter to him: This is apt evidence, this is the truth of it; for it answers directly to what he says against my lord Castlemaine.

Sir Richard Barker.

L. C. J. What say you, sir Richard Barker, can you give an account of Oates? When was Mr. Oates in town? What time that you know of?

Sir R. Barker. My lord, I remember we were once upon this before your lordship.

L. C. J. In 1678?

Sir R. Barker. Yes, my lord; the evidence that I gave, my lord, was only this, that my servants told me that Mr. Oates had been at my house: It was before Whitsontide in May 1678.

L. C. J. Did you see him then? When was it you saw him?

Sir R. Barker. My lord, I saw him after.

L. C. J. How long after?

Sir R. Barker. My lord, it was about the latter end of June.

L. C. J. He says to his own knowledge he saw him in June.

Att. Gen. But we have his servants here too, Philip Page, and Cecily Mayo.

L. C. J. Do you hear, Mrs. Cellier, was there any letters sent by my lord Castlemaine to my lady Powis, that was read before you and Dangerfield?

VOL. VII.

Mrs. Cellier. No, my lord.

L. C. J. Here are two witnesses; my lady says there is no such thing, and Mrs. Cellier says it.

Pris. There is another thing, that is, the teaching the scholars at St. Omers; that I taught the scholars their lessons.

— **Turner.**

Sol. Gen. Pray inform my lord and the jury, what time it was you saw Mr. Dangerfield at my lord Castlemaine's.

L. C. J. What month can you charge yourself to say you saw Dangerfield in my lord Castlemaine's company.

Turner. I can't say just the time.

L. C. J. Might it be August?

Turner. I can't well tell, I think it might be about July.

Just. Raymond. Why do you think so?

L. C. J. You are not asked to accuse yourself in any thing, but when you saw them together.

Turner. I was coming down stairs, my lord.

Just. Raymond. You don't tell when it was.

L. C. J. Tell us whether you can tell or no: If you are doubtful, say you are doubtful; but speak the truth.

Turner. I can't be positive.

L. C. J. It might be in June, or July, or August; but you think July.

Turner. Yes, sir.

Sol. Gen. The sooner it is after that, the evidence is the better against it.

Att. Gen. Madam, I think your ladyship says you never sent a letter by Dangerfield?

Lady Powis. Yes, sir.

Att. Gen. Nor did you never receive any notes from him?

Lady Powis. I have received some notes from Mrs. Cellier, which were his writing.

L. C. J. But did you ever receive a letter from my lord Castlemaine?

Lady Powis. Never, my lord.

— **Woodman.**

Just. Raymond. What do you say, Mr. Attorney?

Att. Gen. Hark you, Woodman, were you sent with any letter?

Woodman. To whom?

Att. Gen. To my lord Castlemaine, or any body?

Woodman. I was sent with one letter, it was Mrs. Cellier's, my lord.

L. C. J. To whom?

Woodman. To my lord Castlemaine; as I remember, my lord, I took it from Mrs. Cellier's daughter.

Att. Gen. Did you ever receive any money of my lord Castlemaine?

Woodman. Yes, my lord.

L. C. J. What was it; How much was it?

Woodman. About three pounds, or thirty shillings, I believe.

L. C. J. How do you believe it?

Woodman. To the best of my thoughts it was.

4 B

Att. Gen. Was it for Dangerfield?

Woodman. My lord, I don't know that.

L. C. J. Have you any more?

Sol. Gen. My lord, I have this to say, to prove Dr. Oates was in London in April 1678.

L. C. J. He doth not deny but he might be here too.

Pris. I don't dispute it my lord, I have only this one word more. It is not of treason, but it is against my reputation; because this man, before your lordship, I think, has accused me of it; and I think, my lord, I shall give you very good satisfaction: That is, that the boys that came from St. Omers were not instructed and taught by me. Now, if you please, my lord, to give me leave to shew it, I have done. Look my lord, the thing that I can say, is this; Mr. Littcott—

Just. Raymond. You see he said it was morally impossible.

Pris. Pray, my lords—

Just. Raymond. I will undertake you will say it is time lost.

L. C. J. I will stay some time to observe to the jury what I have taken notice of, with all my heart, but I should be gone.

Pris. I have done, my lord, I would not say any thing to disgust any body.

L. C. J. Gentlemen of the jury, I will deliver my observations in this cause as I would in any cause, to the best of my understanding, and I will make those observations that are as natural as I know how to do; and proper for you to take notice of. It is in vain to dispute what my lord stands indicted of: it is for attempting to murder the king, and change our government and our religion. To prove this there have been two witnesses only that are material, and that is Mr. Oates in the first place; and Mr. Oates his evidence, the sum of it is to be reduced—

L. C. J. Mr. Attorney, do you stand up to speak any thing?

Att. Gen. If your lordship pleases, we will sum up the evidence for the king, not to offend your lordship.

L. C. J. If you would be short, Mr. Attorney, we would not hinder you of any thing.

Att. Gen. I will be very short. If it please your lordship, and you gentlemen of the jury, my lord Castlemaine is here charged with high-treason. The proof that we have against him is by two witnesses, that is, Dr. Oates and Mr. Dangerfield. Mr. Oates he doth swear this, namely, that after the consult (for I will bring it in short) that after the consult that was for killing the king and altering the government, my lord Castlemaine being acquainted with it at Mr. Fenwick's chamber, did hope it good success, and that he should come to be revenged. Mr. Dangerfield he hath proved, That being treated with to kill the king, and having refused to do it, my lord Castlemaine was very angry with him for it, and said, 'Why won't you do that for which you were taken out of prison?' Here are two witnesses express. What is said against Mr. Oates signifies nothing.

As to Mr. Dangerfield, there are some exceptions, which we must confess to be true; but he is a witness, and, my lord, such matters are to be expected to be proved by such witnesses: for if a man will discover robberies, he must go to such persons as do such things; and if treasons, it must be among them that have been employed in such things. Though he were a dishonest man before, yet he may be honest now: he was never guilty of any treason but as he was employed among them. There are some witnesses brought to encounter him, and one is my lady Powis, who, as he says, sent him with a letter to my lord Castlemaine; but she says she did never send a letter by him: and others say, he would never come at my lord Castlemaine after he was angry, which was in June. Now for that, gentlemen, you do hear Turner say, That in July or August, for he cannot tell which, he thinks it might be July, he saw Dangerfield at my lord Castlemaine's so that that encounters that evidence.

L. C. J. If Mr. Attorney had not interrupted me, I would not have left out any thing of this nature, for I would be certainly careful where the king's life lies at stake: I would be sure to preserve my sovereign above all things; and therefore no man ought to think that I should be partial in a cause wherein our religion, and the life of the king and the government is in danger. But I must say on the other side, that there should be good competent proofs of these things against those accused, because their lives and fortunes, and honours, and all are at stake. And so, gentlemen, we shall discharge our consciences to the best of our understandings, and deal uprightly on both hands.

For the case it stands thus: It is truly observed by Mr. Attorney, that there are but two material witnesses to the charge of this indictment, that is to say, Mr. Oates and Mr. Dangerfield. Mr. Oates his testimony is in two things; the one close, the other is more remote. That more remote is, that he had a letter to send to my lord Castlemaine, which he gave to the provincial to send it, and as he says, he saw a letter subscribed Castlemaine; and that afterwards by seeing him write a superscription, he could recollect the character so well, that he believed that to be his hand which he saw in Spain among the jesuits or the fathers, as they call them there, to whom they communicated that letter; wherein he mentioned the general design, that is, the bringing in popery, which is the bringing in the Catholic religion, as they call it. That is more remote. He says, there were letters passed between them, wherein my lord approved of some things, and disapproved of others, which related to the design; by which, says Mr. Oates, we meant the whole matter and transaction of killing the king; and that doth appear by that letter he saw of my lord Castlemaine's, for that annexes to design the advancing the Catholic religion. The first time he saw him he did not know who he was; and there, at Wild-house, he says,

that my lord Castlemaine should drop out some words which were suspicious, and one thing, as if he understood something of this matter that they had in agitation.

But more particularly he says, that when he came to Fenwick's chamber, there was the great matter. They talked before but of the design in general, at Wild-house; but afterwards meeting in Lincoln's-Inn-Fields, where he was told who he was, they went to Fenwick's chamber, where they fell a discoursing about several things that related to the concern, and at last they fell upon the matter in hand, and said, they were glad to see the fathers so unanimous in this matter: I asked about what matter? He said, the killing of the king and bringing in popery; to which, he says, that my lord should make answer, he wished them good success in their design, and that then he should be revenged. This is the substance of what Mr. Oates says; against whose testimony, I must tell you, there hath been but little. There is but little thrown upon Mr. Oates by way of disgrace and infamy; for that verdict that the jury found against his evidence, it is not material, for then every man must be accused when the jury does not go according to the testimony he gives. It is not to be denied, but there is something said against him in another particular, and that is his coming over from St. Omers; where he says that Mr. Hilsley came over with him in the packet-boat, but Mr. Hilsley denies it; Mr. Oates would have salved it, by saying he left him at St. Omers. It is true, says Mr. Oates, but I overtook him afterwards; but he says to the point, that he came not with him. Now, it is not to be denied on the other hand, but Mr. Oates might be here, and my lord of Castlemaine seems to admit it, and it is probable enough Mr. Oates might be here. This is all I remember in reference to Mr. Oates. You must weigh well with yourselves how probable or not probable what he does swear is. But I must tell the jury they are to weigh the natures of people among themselves, as they carry probability or not, or else the confidence of a swearer shall take away any man's life whatsoever. And to that Mr. Oates says first, I understand not how he should be so free, Mr. Oates being a stranger to him, when he knew not my lord, and doth not know whether my lord knew him or no. But he says, my lord must needs see the Jesuits trusted him, and that might make him more confident: that afterwards going to Fenwick's house, he spoke broader in plain English. They were talking of a design to kill the king and bring in the Catholic religion; and Mr. Oates says, he wished them good success in the design, and that then he should be revenged. How far this oath is to be taken or not, I must leave to your consideration.

The next is Mr. Dangerfield; for nothing infamous is proved against Mr. Oates. Dangerfield is a man of whom there is enough. You see what crimes there are; for it is the duty

of every judge; and I cannot see how he can discharge his conscience, and the duty he owes to the government, in respect of his oath and place, if he doth not make those just observations to the jury which are done in all cases: that is to say, when men have contracted great crimes upon themselves, though by law they may be witnesses; yet it hath always been observed, and their credit left them to consider of. You see how many crimes they have produced, a matter of six great enormous crimes; and by them you will see how far you ought to consider his testimony. Had Mr. Dangerfield been guilty only of being concerned in the treason, and come in as a witness, I should have thought him a very competent witness, for that is Mr. Oates's case; but they prove crimes of another sort and nature, and whether the man of a sudden be become a saint by being become a witness, I leave that to you to consider, and how far you are satisfied in the main.

The next thing is the opposition to his testimony. He hath sworn that he carried a letter from my lady Powis to my lord Castlemaine, and an answer returned back from my lord to her, and that my lady Powis did read it in the presence of Mrs. Cellier and him. Of this my lady Powis hath been asked (it is true, they are not upon their oaths, but that is not their fault, the law will not allow it), and my lady Powis hath affirmed to it, as much as lay upon her to do, that she never sent a letter by Mr. Dangerfield to my lord Castlemaine, nor any body else. And whereas he says Mrs. Cellier was present, she says she knows of no such letter, nor was any read in her company. And this is a contradicting his evidence, supposing him to be a man otherwise untouched. And whereas Dangerfield says, that in August he was with my lord, and he said, how chance you would not do that thing for which you were brought out of prison? 'What? Would you have me kill the king?' Yes, saith he, that is it. And my lord speaking very angrily and very roughly, made him think it time to withdraw out of his company, and never come into his company more; and that this was the time of his anger, and no other time, my lord rather complimenting him, as he would say, with friendly salutations. But they produce witnesses against this. Says Mrs. Cellier, this day twelvemonth; and says t'other, about a week after the jesuits were executed, which was about the beginning of July, saith she, I would have you carry a letter to my lord Castlemaine; saith he, I would not do that, I would go an hundred miles upon another errand, but I would not go to him. Another witness says, my lord was mighty angry with him, and told him the cause, because he went in his name to the lords in the Tower. First, this contradicts what he said, as if there had been no anger before. The next is, that it is very improbable that my lord should be angry with him so much, that my lord should be very angry with him for going in his name to the Tower, and afterwards for his refusing to kill the king; when he said,

“Why did you not do that you came out of prison for? What, my lord, to kill the king? Yes, that.” This is an argument in opposition to his testimony.

The next is a consideration for his testimony. Turner says, in answer to that, in July he takes it, but cannot charge himself whether June, or July, or August, but he himself thinks July, that he saw him at the lord Castlemaine’s house. And the king’s counsel would gather from that, there could not be such an unwillingness to go before that time, it being after the time they speak of that this man saw him there. Whether or no it was in June, or July, or August, is something uncertain. So that I have repeated, as near as I can, all that is substantial on either part; and I have, according to the best of my understanding, dealt fairly on both sides, and observed to you what hath been sworn against my lord, and what hath been said in contradiction to what they swear, and what appears upon record, as to Dangerfield.

There is a great deal of difference between Mr. Oates’s testimony and Mr. Dangerfield’s; for you may believe one, when you may perchance not believe another. There are not those things cast upon Mr. Oates that are upon Mr. Dangerfield. Now I must tell you, though they have produced two, if you believe but one, I think (if so be my brethren’s opinions be otherwise, I would be very willingly contradicted in this matter) if two witnesses are produced, both speaking materially to the thing, the one is believed, and the other not. Whether upon these two witnesses the jury can find

a person guilty, or no? I am of opinion, it is but one witness, if you do not believe one; and I am sure one is not sufficient to find one guilty; And therefore if so be you are of another opinion, let us deal fairly and above-board, that it may appear we deal rightly between the king and his subjects, and so preserve men that are accused, and not guilty.

Just. Jones. I think, in the first place, my lord hath very faithfully delivered the evidence; and I do think it necessary, in a case of Treason, that there must be two witnesses believed by the jury.

Just. Raymond. I never heard any man question it. If the law says there must be two witnesses produced, it says they must be both believed.

L. C. J. Now you have our sense of it.

The Jury went from the bar, and returned.

Cl. of Cr. Are you all agreed of your verdict?

Jury. Yes.

Cl. of Cr. Who shall speak for you?

Jury. The foreman.

Cl. of Cr. Roger Palmer, esq.; earl of Castlemaine in the kingdom of Ireland, hold up thy hand, look upon the jury.

Cl. of Cr. Is Roger Palmer esq. earl of Castlemaine in the kingdom of Ireland, Guilty of the High-Treason whereof he stands indicted, or Not Guilty?

Jury. Not Guilty.

Cl. of Cr. This is your verdict, you say he is Not Guilty, so you say all?

Jury. Yes.

267. The Trial of HENRY CARR, or CARE, at the Guildhall of London, for a Libel: 32 CHARLES II. A. D. 1680.

AN information was filed in the Crown-office against Henry Carr, which sets forth, That a certain plot of a traiterous conspiracy was lately had within this kingdom of England, amongst divers false traitors of this kingdom of England, to put to death and murder our lord king Charles 2. and the government of this kingdom of England, and the sincere religion of God within this kingdom of England well and piously established, to destroy and subvert, and the Romish religion within this kingdom of England to introduce; and that also divers traitors for high-treason aforesaid, were lawfully convicted and attainted, and other persons, for high-treason, aforesaid, were by due course of law tried and acquitted. Nevertheless, one Henry Carr, of the parish of Sepulchres, London, gent. knowing well the premises, but minding, and maliciously intending the government of the kingdom of England and the administration of justice in the same kingdom to scandalize, and to bring the same in contempt:

The 1st day of August, in the 31st year of

our now lord the king, at the parish of Sepulchres, London, a certain false, scandalous and malicious book, intituled, “The Weekly Packet of Advice from Rome, or the History of Popery,” maliciously and unlawfully hath printed, and caused to be published: In which book is contained among other things, as followeth: ‘There is lately found out by an experienced physician, an incomparable medicament, called “The Wonder-working Plaster,” truly Catholic in operation, somewhat of kin to the Jesuits Powder, but more effectual. The virtues of it are strange and various. It will make justice deaf as well as blind, takes out spots out of deepest treasons, more cleverly than Castile-soap does common stains. It alters a man’s constitution in two or three days, more than the virtuosos transmutation of blood in seven years. Is a great alexipharmic, and helps poisons, and those that use them. It miraculously exalts and purifies the eye-sight, and makes people behold nothing but innocence in the blackest malefactors. It is a mighty cordial for a declining

' cause, stifles a plot as certainly as the itch is
' destroyed by butter and brimstone. In a word,
' it makes fools wise men, and wise men fools,
' and both of them knaves. The colour of this
' precious balm is bright and dazzling, and
' being applied privately to the fist in decent
' manner, and a competent dose, infallibly per-
' forms all the said cures, and many others not
' fit here to be mentioned.*

To the great contempt of our lord the king
and his laws, to the great scandal of the govern-
ment of our now lord the king, and the laws of
this kingdom of England, and the administra-

* "The Weekly Pacquet of Advice from
Rome, &c." was first published on Tuesday De-
cember the 3rd 1678, and the three next numbers
appeared respectively on the 10th, 17th and 24th
of that month. Then the day of publication
was changed from Tuesday to Friday for the
convenience of dispatching the paper into the
country by the post accordingly; the 5th number
was published on Friday, January the 3rd, 1679.
The work was continued until Friday, May 28,
1680; when I conjecture it ceased in conse-
quence of the prosecution out of which arose
the trial before us. In the year 1679, the first
31 numbers were published in a volume with
this title, "The Weekly Pacquet of Advice from
Rome, or the History of Popery: A deduction
of the usurpations of the Bishops of Rome, and
the errors and superstitions by them from time
to time brought into the church. In the pro-
cess of which the Papists arguments are an-
swered, their fallacies detected, their cruelties
registered, their treasons and seditious princi-
ples observed, and the whole body of Papistry
anatomised, performed by a single sheet,
coming out every Friday, but with a continual
connexion." To each being added, "The
"Popish Courant, or some occasional Joco-se-
"rious Reflections on Romish Popperies." In
the next year, the 47 succeeding numbers were
collected into the "Second volume of the Week-
ly Pacquets of Advice from Rome, or History of
Popery; displaying the horrid lives of the several
bishops of Rome down to the year of our lord
one thousand, and the usurpations, errors, and
superstitions from time to time introduced or
advanced in the church. Wherein also divers
of our most important controversies with the
Papists are fairly stated and argued, their argu-
ments solved, their objections answered, and
the truth asserted, together with the Popish
Courants, or, &c." Both volumes as well as the
single numbers were published by Langley
Curtis, on Ludgate Hill. [See the Case of Jane
Curtis, in this Collection.]

The passage which is set forth in the inform-
ation is part of the "Popish Courant," No. 4,
of the 2d volume. In the argumentative part
of the work there is much historical and contro-
versial learning. In the other part the at-
tempts at wit are but rarely successful; the jo-
cularity is generally coarse and sometimes
brutal. The whole is written with great acrimo-
ny,

tion of justice in the same kingdom; to the evil
example of all others in such a case offending,
and against the peace of our lord the king, his
crown and dignity.

To which Information appeared in the
Court of King's-Bench, Henry Carr, by his at-
torney, Benedict Brown, the 11th of February,
and having heard the Information aforesaid,
said that he was Not Guilty.

Issue being joined, it was tried by writ of
Nisi Prius, at the Guild-hall, before the lord
chief Justice Scroggs, upon the 2nd of July,
1680, where a jury was summoned, whose name
are as followeth: Benj. Thorogood, Richard
Blackbourne, Godfrey Richards, Leonard Bates,
Phillip Harman, Francis Breerwood, Thomas
Kemble, William Longman, John Debmán,
Lewis Wilson, Henry Lushoe, Thomas Salter,
Jeremiah Gregory, Nich. Bondy, George Day,
Nich. Dawes, Richard Blaney, Henry Averie,
Joseph Hall, William Bridges, Thomas Lee,
Richard White, Randal Dod, Richard Bowater.
Of all which only four appeared and were
sworn, viz. Nicholas Bondy, Leonard Bates,
Henry Averie, Randal Dod. Whereupon a
tales was prayed and granted, and then were
sworn and added to the principal pannel, accord-
ing to the form of the statute. Nicholas
Caplin, Richard Cawtham, Arthur Young, Wil-
liam Yap, James Wood, Thomas Gilby, John
Odensel, Emanuel Conyers.

After which the court proceeded, and the
Recorder began to open the offence, as fol-
lows.

Mr. Recorder, (Sir George Jefferies.) This
person among others intending to scandalize
the government, hath caused a book to be
published, which I have here in my hand, called
the Weekly Packet of Advice from Rome; there
are some papers besides what are bound up to-
gether that are continued on, which, my lord,
would not be amiss for us that are of the king's
counsel to take notice of, not only for the jury's
satisfaction, but likewise for the satisfaction of
this great auditory, some whereof I know come
to pick advantage, and to know whether or no
rascals may have liberty to print what they
please. Now all the judges of England having
been met together, to know whether any per-
son whatsoever may expose to the public know-
ledge any manner of intelligence, or any matter
whatsoever that concerns the public, they gave
it in as their resolution, that no person whatso-
ever could expose to the public knowledge any
thing that concerned the affairs of the public,
without licence from the king, or from such
persons as he thought fit to entrust with that
affair. But such is the age that we live in, that
a man that hath wit enough to libel any man
in the government, thinks he hath licence
enough to expose that man to public knowledge
also. And they do it under specious pretences,
because they think that any man may be ex-
posed to the public censure that they can either
call a papist, or but popishly affected, and
that man is either the one or the other, that is
not agreeable to every rascally humour that

some people affect. I acknowledge, my lord, that any man that will in a legal manner endeavour to suppress popery, ought to be encouraged in his endeavour, to the utmost; but if in case any man will be transported with zeal because he is of a party, and under pretence of endeavouring to suppress popery, should support a party, that man ought to be detected. The author of this Packet of Advice from Rome, or the publisher of it, Mr. Carr, that is now the defendant, he thinks he can scratch the itch of the age, and that he may libel any man concerned in the government, if he can but call him a papist, or popishly affected; let a man be never so honest let a man be never so much for the support of that religion that every honest man ought to support that is, the Protestant Religion, as it is established by law, without going to Rome or Amsterdam for assistance. I will not mention the persons that are concerned in it, but I will apply myself wholly to this matter, that it is the opinion of all the judges of England that it is the law of the land, that no person should offer to expose to public knowledge any thing that concerns the government, without the king's immediate licence. Now we are to try whether this person exposed this thing to public knowledge, and that is the matter, gentlemen, that you are to try. The other is the business of the court; we are to say whether if we prove the fact, this man is guilty of punishment, and no doubt the justice of the nation will punish him. But when I see so many swarm about me, I am willing to hear what proof there is.

Sir Fr. Winnington. I am of counsel for the defendant, I only offer it to your lordship, that the information may be proved.

L. C. J. Here are two things we are to keep to, the matter of proof according to the information, and accordingly are we to proceed as in common justice we find the case to be. I must say that for the prisoner, he has behaved himself with as much modesty as in duty and honesty he ought; but I find that *Sir Fr. Winnington* puts you upon proving.

Sir F. Withins. My Lord, we will prove it.

L. C. J. (*Sir William Scroggs.*) Let them that are not of the jury go forth, the jury is no more to be corrupted than the judge,

Sir Francis Withins. We must be allowed the first part, that there was a plot.

L. C. J. The jury may take that upon their oaths, they know there was a plot the certainest of any thing of fact that ever came before me.

Mr. Stevens, Printer.

L. C. J. Did Mr. Carr own he writ this packet, had you any from him?

Printer. I had several from him.

L. C. J. Of whom else had you any?

Recorder. Besides Carr?

L. C. J. You are upon your oath; from whom ever had you any besides?

Printer. I do not remember that I had any from any body else.

L. C. J. You printed them, did you?

Printer. Yes, my lord, I did.

L. C. J. And you know of none from any else, but by him or his orders?

Printer. No, My lord.

Sir Fr. Winnington. Shew him the paper. Can you swear upon your oath, that Mr. Carr did send or deliver to you that very paper?

Printer. I cannot tell that any body else did send it.

L. C. J. We must do here, as we do in all cases: he saith, I had divers of these papers from him, I printed them, and I know of none that ever was but by him or his order.

Sir Fr. Winnington. He saith so, but, my lord, the information is to such a particular book entitled, "A Pacquet of Advice from Rome."

L. C. J. He says this in answer to it, I can't charge myself with this particular to say positively I had it from him; but this I can say, we had several from him, and I know of none else, but all were by him or his order.

Sir F. Winnington. Will your lordship give me leave to ask him one question? Can you swear that any that came from him contained the very matter in that book? Was it the matter or words?

Recorder. Do you believe it?

Sir F. Winnington. Good Mr. Recorder, let me alone. Can you say it is the very matter contained in that paper?

Printer. I can't say that.

L. C. J. It is not an easy matter for a man to remember the matter of a paper that is writ on all sides. He swears that they had several; and that they had none, though he printed them, from any but him or his order. This question *sir Francis Winnington* asks, Had you this particular paper from him? He cannot swear it was the same he had from him; but he does swear, all the Weekly Intelligences were from him or his order; he does not swear for the matter of this book, which no man will do: but he does swear that these papers were always by him or his orders, and that several were received from him.

Mr. Williams. I ask you upon your oath, he brought it to you in writing, did he not?

Printer. They came in writing.

Mr. Williams. Have you any of these papers to shew?

Printer. We did not regard them when they were printed.

L. C. J. His cause shall be tried very justly and very indifferently.

Mr. Williams. Had you ever a paper from Carr's hand or no?

Printer. We had few from his own hand.

Mr. Williams. Had you any?

Printer. I can't remember.

L. C. J. Had you any? You are upon your oath.—*Printer.* My Lord, I can't remember.

L. C. J. Had you one, or two?

Printer. Indeed my lord, I cannot remember, I cannot say upon my oath he ever brought one.

L. C. J. How then came you to say you had several from him?

Printer. Ay, my lord, from him, that is, by him, or his order.

L. C. J. Are you sure it was by his order?

Printer. I did conceive so, my lord.

L. C. J. Had he any money?

Printer. From me?

L. C. J. Had he any money from any body for printing any of these papers, as you can remember?

Printer. I do suppose so; I have heard he had.

L. C. J. Did you give him any?

Printer. No, my lord, I was not concerned. The publisher my lord was between him and me.

L. C. J. Who is that?

Printer. That is one Curtis.

L. C. J. Did Curtis pay him any money?

Printer. I never saw him pay him any, my lord.

L. C. J. Hath he owned at any time he had any money?

Printer. My lord, I never had any occasion for that question.

L. C. J. Have you talked with Carr?

Printer. Yes, my Lord.

L. C. J. Now I shall have you: For I do believe you are an honest man. Did Carr ever own himself to you to be the author of this book, or any of these papers?

Printer. My lord, as I said in the other case, so I say in this, I had no occasion to dispute it, I took it for granted.

L. C. J. Have you ever heard him own it?

Printer. I have heard him deny it.

L. C. J. How did you come to take it for granted that he was the author, when he did once deny, but never owned it? Answer me that question, and thou shalt be a brave man.

Printer. My lord, there was never occasion for that discourse.

L. C. J. Look you sir, you must answer me in a way agreeable to common reason and understanding. Why did you say just now, you took it for granted that he was the author, and yet you say he hath denied it and never owned it? Why should you then believe he was the author?

Printer. I don't say, my lord, he never owned it.

L. C. J. What tricks we have in this world!

Recorder. I would ask the gentleman, I will not quarrel with him at all, if he thinks not in his own conscience he has reason to quarrel with himself. Did he ever own it to you?

Printer. I don't remember he ever owned it to me in so many words.

L. C. J. Did he treat with you in these circumstances as if he were the author?

Printer. Yes, my lord, I grant that.

Recorder. But do you swear it is so? We don't care for your granting: I ask you upon your oath, did you ever discourse him as the author of these papers?

Printer. I supposed him to be the author.

L. C. J. Did he deny it, or baulk when you discoursed him of this matter?

Printer. My lord, I must needs say as I said before, it was taken for granted.

Mr. Williams. You had it in writing, where are those writings?

Printer. We seldom regard those writings.

L. C. J. It is hard to find the author, it is not hard to find the printer: But one author found is better than twenty printers found.

Mr. Williams. My lord, I will ask this man a question. Upon your oath, who brought you that writing?

Printer. What writing?

Mr. Williams. That by which it was printed: who brought you that paper?

Printer. I don't remember particularly I had any of Mr. Carr himself.

Mr. Williams. Can you name the person that brought this paper, or any one person that brought any one paper?

Printer. There was a little boy.

Mr. Williams. Whose boy?

Printer. Mr. Carr's boy.

Recorder. Now it is out.

Mr. Williams. Name the boy.

Printer. I do not know his name.

Mr. Williams. Can you name another, can you name any body else?

Printer. Truly, sir, I don't remember any body else.

Mr. Williams. Now I will ask you one thing: Had you any directions for the printing this paper?

L. C. J. To what purpose was this written paper brought to you?

Printer. To be printed, my lord.

Mr. Williams. Who gave directions?

Printer. It was the publisher that chiefly directed me.

Mr. Williams. Who was that?

Printer. I have named him.

Mr. Williams. Name him again.

Printer. Curtis.

Mr. Williams. Did Carr never direct you to print this paper?

Printer. He did not deal immediately with me.

Recorder. When the little boy came, who did you take him to come from? From Mr. Carr, or Mr. Curtis?

Printer. From Mr. Carr.

L. C. J. He says he was Carr's boy, and that he came from him: this I speak to the jury; and I promise you this, if my life and fortune were at stake, I would be tried by this jury at the bar, and would do in this, as in all cases. Mr. Carr is looked upon as the author of this book; that it either came from him, or by his order, his boy (he can remember no body else) did bring it. This is now remaining only: are you sure Mr. Carr sent him? Saith he, we talked with Mr. Carr several times.

Sir Fr. Winnington. Thus it is, my lord, in the information, 'Maliciôsè et illicitè imprimi causavit et publicavit.' Now I would only ask him a question, my lord, whether or no did

Mr. Carr own to you that he sent the boy to have it printed?—*Printer*. No, Sir, I think not.

L. C. J. That is the same question asked before. Did Mr. Carr ever own it as his, or no? Upon your oath, did Carr own this packet to be his, when you discoursed with him about it?

Printer. My lord, I humbly crave your leave to explain myself. I mean by the discourse I had, common conversation, as the drinking a glass of wine; but I know not that ever we discoursed upon this thing.

L. C. J. I mean so? When you talked about this matter, did you take it, by his discourse, for granted, that he was the man that published it?

Printer. I took it for granted, because I had it from him.

L. C. J. What say you to this? have you blamed Carr for writing too sharply in this book against the government?

Printer. My lord, I do confess I have.

L. C. J. What answer hath he made, when you blamed him for writing too sharply, as you thought? Did he deny that he did it?

Printer. I don't remember that.

L. C. J. What sort of answer did he make to excuse it? that he thought it not too sharp; or did he say, I care not.

Printer. My lord, I can't particularly say what answer he made.

L. C. J. When you blamed him, by the oath you have taken, upon that blame of yours, did he deny he wrote it?

Printer. No, my lord, I do not remember he did.

Mr. Williams. Did Carr at any time deny he was the author or publisher of it?

Printer. He hath at some times.

Mr. Williams. What did he deny?

Printer. That he was the author.

Mr. Williams. Of what book?

Printer. Of the Packet?

L. C. J. Did he deny he was the author of this particular book for this week, or deny it in general? Did he deny in general that he was the author of that book that is called, "The Packet of Advice?"

Printer. I have heard him say sometimes that he was not the author.

Recorder. And sometimes what?

Printer. I have heard him say some time or other, that he was not the author.

Recorder. And what else?

The Printer's Servant.

Mr. Williams. Are you acquainted with Carr?

Man. I never had any converse with him.

Mr. Williams. Do you know any thing of the Packet of Advice?

Man. I know we have had Packets from him: I fetched some from him.

Mr. Williams. What, from his hands?

Man. Yes.

Mr. Williams. What, from his own hands?

Man. Yes, in pieces, no whole sheets.

Printer. This is my servant, I am not always there.

Sir Fr. Winnington. My lord, I would ask this man a question. This printed paper that is put in the information, did he ever deliver that to you?

Man. I can't speak particularly to any one.

Recorder. But generally to all?

L. C. J. Have you done?

Mr. Williams. I ask you a question.

L. C. J. If you could, Mr. Williams, shew me any author besides Mr. Carr, I would say something.

Mr. Williams. Who brought you this paper?

Man. Which paper?

Mr. Williams. I don't speak of this paper particularly. Did any bring any besides Carr?

Man. Yes, his boy.

Mr. Williams. Did any body else bring any from any place?

Man. Nobody else that I know of.

Mr. Williams. The packet he brought you, had it been printed before? I ask you upon your oath, was it printed before he brought it?

L. C. J. Did he bring papers to print that were never printed?

Man. They were never printed that I know of.

Mr. Williams. Did he bring any to print?

Man. I can't say he brought any.

Mr. Williams. Did Mr. Carr bring any?

Man. No, the boy.

Mr. Williams. Who directed you to print them? Did Carr direct you?

Man. I can't tell, I am a servant in the house.

L. C. J. I will assure you, a 'Non est Factum' can't pass at this rate.

Justice Jones. Who did you take to be the man that sent you all the packets?

Man. I very seldom took any, because I was not always in sight.

L. C. J. Who did you understand?

Man. I understood they came from Mr. Carr.

L. C. J. Have you any more? Read the words in the Information.

Clerk. Friday the 1st of August, 1679. "There is lately found out by an experienced physician, an incomparable medicament, called, The Wonder-Working Plaister; truly Catholic in operation; somewhat of kin to the Jesuits Powder, but more effectual. The virtues of it are strange and various. It makes justice deaf, as well as blind, and takes out spots of the deepest Treason more cleverly than Castile-Soap does common stains. It alters a man's constitution in two or three days, more than the Virtuosis Transfusion of Blood in seven years. It is a great alexipharmic, and helps poisons and those that use them. It miraculously exalts and purifies the eye-sight, and makes people behold nothing but innocency in the blackest malefactors. It is a mighty cordial for a declining cause; it stifles a plot as certainly as the itch is destroyed by butter and brimstone. In a word, it makes fools wise

men, and wise men fools, and both of them knaves. The colour of this precious balm is bright and dazzling, and being applied privately to the fist, in decent manner, and a competent dose, infallibly performs all the said cures, and many others not fit here to be mentioned. *Probatum est.*"

Sir Fr. Winnington. May it please your lordship, and you gentlemen of the jury, I am counsel in this cause for the defendant: And the question is, whether or no we must take the Information as it lies? And truly, for the first part of it, whether there was a plot or no, I do not intend to make exceptions; for I believe there was one, and I do intend to take it as in the information. Gentlemen, we are to proceed now to this other question: which is, my lord, Whether or no this defendant, that is, Carr, did 'falsely and maliciously,' and with 'design to scandalize the government,' cause to be printed and published this false libel that is in the information. Now truly, my lord, we that are for the defendant, say we are not guilty. My lord, we very well know how penal a thing it is for a man to be the author of a libel that relates to the scandal of the government. And, my lord, whether this defendant be guilty of this, or no, we must submit that to your lordship's and the jury's consideration. They have produced two witnesses, that is to say, the printer and his man. Now, my lord, there hath been going out for some time, A Weekly Packet of Advice from Rome; and I did ask the witnesses (for the information points at one paragraph, and puts the paragraph in *hac verba*)—I did ask him whether or no he did send, or whether the matter that he sent is that contained in this information. That he could not swear: but must be left in point of evidence, it being, we allow, a very penal matter. The second witness and the first witness likewise say, there was a boy: but whether that boy came by his master's direction, he does not know. I asked him if ever his master sent the boy; he does not know, he says, that he sent him. But the last witness says, divers were had from the hands of Carr; but whether it was the thing that is now complained of, there is the question, and that is in the dark: For, by your lordship's leave, I do not understand that ever this man was complained of to any public magistrate for writing this book; for it was thought he was a satirist against Popery, and thought to be very well liked on till this fault was found with it; and it may be very justly; whether or no we be guilty of this, is uncertain: For we know in the age we live in, there are too many shams put upon men; and who knows but that the Papists that might have an ill-will to this Mr. Carr, that hath been no friend to them, might shuffle in this paragraph, by that means to have justice come upon him? I would not contrive against common evidence, where a man is guilty to the public; but we know there are abundance of artifices in this age to abuse men. For this purpose I hope your lordship

VOL. VII.

and the jury will expect that you should have positive evidence against him. Now granting your lordship should have conjectural evidence that he did cause it to be printed and published, that this man did write it, is, I say, very uncertain, for there is no positive evidence. What a man may have in his private thoughts of it, is not enough: But, whether 'secundum allegata et probata,' it shall be alledged and proved, that this man was the author of it. Now, my lord, I say, I must submit it to your lordship, I say, that as to the causing it to be printed, or the causing it to be published, or that this individual paragraph was writ by him in order to its being printed or published; my lord, I say, there is but remote and conjectural evidence, and an angry Papist might contrive this way to have an innocent Protestant found guilty.

People. Hem——

L. C. J. You see what a case we are in, gentlemen; you see what a sort of people we are got among. Go on sir Francis.

Sir Fr. Winnington. With your lordship's leave I have one thing to put to your lordship. The information says, 'faux, illicite et malicieux.' I know there are some things that do imply malice in themselves. Truly, my lord, I am upon a tender point, and know not how to express myself. I say, supposing it should fall out that this man writ this book, and he might have some little extravagancies in his head in writing, whether this man did it maliciously to scandalize the government, as the information says, is a question. Truly, my lord, there is many an indiscreet act a man may be guilty of, that cannot be called a malicious act; and that is the second thing. There must be evidence that this man did it maliciously, or that he did it with a design to scandalize the government. If you be of opinion that it is otherwise, that is in your lordship's breast; we are of the negative, and we say we can't prove a negative. But if you find him innocent I suppose there will be no cause to complain of him afterwards, for he had no malice in his heart.

Mr. Williams. My lord, it can never be supposed that a good man, and a good subject, should do an ill action. If he be a very good subject, if he be upon a square in every respect, a person that loves his king, and loves the government in church and in state; if he be such a person, he cannot be thought guilty. My lord we will prove him to be such a man, and I hope the gentlemen will believe us.

Call Mr. Sutton, Mr. Dyliſſe, and Mr. Ambler.

Mr. Williams. Mr. Sutton, do you know Mr. Carr?

Sutton. I know him very well.

Mr. Williams. How long since have you known him?

Sutton. Two or three years.

Mr. Williams. Does he go to church or meeting?

Sutton. He hath been with me at church often.

4 C

Mr. Recorder. Does he receive the sacrament according to the manner of the church of England?

Sutton. I was never with him at the sacrament.

Mr. Williams. Is he one of them you call dissenters.

L. C. J. Did he ever discourse with you concerning this book?

Sutton. My lord, I have often spoken to him.

L. C. J. Has he disowned he was the author.

Sutton. He has sometimes.

L. C. J. How do you believe it was upon that discourse?

Sutton. I do not think he is able to write such a book.

L. C. J. That is not the question, answer me what I ask.

Sutton. It did seem something like his writing, methought.

L. C. J. Did it seem by his answer to your discourse with him?

Recorder. Pray tell us, did you look upon him to be the author?

L. C. J. By the discourse you had with him, how did it appear upon that discourse? Pray tell us plainly and clearly, how you do think, by the discourse you had with him concerning this pamphlet, whether he was the author or no?

Sutton. My lord, about a year, or a year and half since, I did ask him whether this book were licensed? He told me it was licensed by Mr. L'Estrange; but he did not tell me he was the author.

L. C. J. How did it seem by his discourse.

Sutton. I did apprehend he might write it.

Sir Fr. Winnington. My lord, but the question is, whether he wrote this paragraph.

Mr. Ambler.

Mr. Williams. Mr. Ambler, pray do you acquaint my lord, do you know Mr. Carr?

Ambler. Yes, sir.

L. C. J. How long have you known him?

Ambler. Three years.

Sir Fr. Winnington. Of what conversation is he, and how affected to the government?

Ambler. He went to church with me.

Sir Fr. Winnington. Do you look upon him as a man well affected to the government? Do you think he would maliciously write any thing to scandalize the government?

Just. Jones. How do we know how Mr. Ambler understands the government?

Recorder. Mr. Ambler, had you any discourse with him about the Packet of Advice?

Ambler. Never in my life.

Recorder. Did you ever hear of the book?

Ambler. Yes, sir.

Recorder. Upon your oath, did you look upon him to be the author?

Ambler. The common report was, that Mr. Carr was.

Mr. Ayliffe.

Mr. Williams. Mr. Ayliffe, do you know Mr. Carr?

Ayliffe. Yes, sir.

Mr. Williams. Is he a conformable man to the government in church and state? Does he go to hear common-prayer?

Ayliffe. I have seen him at church and divine service.

Recorder. Did he behave himself reverently there?

Ayliffe. Yes, Sir.

L. C. J. Do you think he writ this?

Ayliffe. My lord, I never asked him.

Sir Fr. Winnington. My lord, it seems he was accounted the author of the books; but whether of this particular one in the information, we conceive not proved.

Recorder. If we should not do right, we disclaim that service we owe to the crown, and that respect we owe to the government as honest men and as true protestants, and as much against papists as any man whatsoever. I shall endeavour to give the world satisfaction that this man is guilty of this offence. My lord, for any man to come and pretend that we must prove that a man is malicious; or because that a man writes against the papists, he must never therefore be convicted of malice, surely is a strange argument. And I wonder to hear any man that pretends to reason, men of sense, and conscience, and understanding, so out of their common sense and understanding, as to make that go as an argument. Gentlemen, the things themselves bespeak their malice. For so we in our common discourse, when we bring our common actions (of which you have heard a number), if in case any man call a man thief: we say he does falsely, maliciously, and scandalously call a man thief: If we prove he called him thief, the very thing does intimate he does it falsely, scandalously, and maliciously; therefore the thing itself is a sufficient indication of the malice and depravity of it. There is no man but may know in plain English what is the meaning of these words; it is as plain as can be in the world: We must debase our understandings, and be as great Doltheads as they would make all men that will not be of their party, if we don't plainly see into the meaning of these words, that 'justice is to be bribed with money.' In the next place, gentlemen, we do not come and say, that the information lies against these very particular words; that is a mistake of the information. But the information is, That he did cause to be printed and published a book, in which among others there were such words as these; though if they had been the very words themselves, the very words have been proved. Now, There is no better proof under the heavens, than the proof we have offered. The printer himself, he comes here and says, That Carr did acknowledge himself the author, and he did generally publish the book; I appeal if you do not believe it. This they would now come and excuse; for they are glad to make a rascal of any of their party, if they can but save a man that is guilty. But things come out with much difficulty and much straitness;

and I must say, if ever any thing were an instance of popery, then that man is one of the Jesuitedest fellows that ever was; for he does cant so like them, that a man can't tell how to govern himself. Who was it that should write these things? Truly, he had discoursed with him about the matter. Who sent the boy? Do you know? Truly I can't tell: And a wonderful great snuffing and canting before he comes to the business. Besides, what can there be more plain than the proof-pieces before the publishing? The other man says, that he was the man that fetched pieces from Carr's own hand, and that he always looked upon it that all did come from Carr.

Now every man that knows any thing of printing, knows this, that after it hath first taken the press, it is always carried back again to the author, to see whether it be done according to his mind; and after that it comes to the public view. And that this man, Carr, is the author, Mr. Sutton and the rest of his witnesses, if they speak according to conscience, they themselves looked upon this very man to be the author. Their own witnesses looked upon it so. It was not only the private opinion of these men, but the general report of all. So that, my lord, had it not been necessary to the support of the government, I should have scarce troubled myself to give your lordship and the jury this trouble. But I must say, and I do believe, that there is no man whatsoever, that stands to have vices of this nature convicted and punished, but desires the protestant religion may be supported to the utmost, and that popery may be suppressed. But I say, whoever it is, that after this evidence, who is bound by his oath to go according to evidence, shall acquit this man, he must be a man of a humming conscience indeed.

Sir Fr. Withins. I shall hint one thing to your lordship in this case: That it is an unlikely thing that a papist should set out this *Pacquet* at this time. For then, my lord, how came it to pass that Mr. Carr had none came out that week; for his is a *Weekly Intelligence*? If Mr. Carr's had come out, and this likewise, there had been some pretence for this: But since there came out but one, that the papists set out this is unlikely. They have not pretended to bring in any body else as the author; but their own witnesses say, and they themselves say, he was looked upon as the author. Those things that are done against the government, are never done in the face of the government.

L. C. J. Really, gentlemen, I thought not that this had been a cause of that moment that now I find it. For their very disturbance hath altered it from Mr. Carr's to a public concern. The noise which they make, this way that these people use, that with their shouts and noise attend the cause, hath quite spoiled it: As in the case of Harris.* But those people that did then attend him, leave following him in a gaol for

500*l.*, which may be 5*s.* a piece had discharged him of, if they had been as free of their purses as they are of their noises and acclamations: So that in truth they are only violent against the government whilst they can make shouts and noises, but if it comes once to deliver a man from a penal sum, they will let him rot in gaol. For so Harris sent to me, that his party had all forsaken him, and no man would give him any thing. And this is for those hummers, those brave fellows that seem to espouse a cause, and yet leave their party in distress. But let them go away with this, that they prove themselves hereby enemies to the government, and false to that interest and men that they seem to espouse; that come only here to affront a court of justice with their shouts and noises, and will not relieve their party: For this is the complaint of Harris, and the disparagement of all men that come to espouse it. This cause, the truth of it is, I did not look upon to be of this nature and moment, when it was opened. For though there are in this very paper upon which the information is grounded, words malicious and reflective enough; yet they were not so apparently appropriated, that a man might observe an extraordinary design in them. This I thought; but really the case is altered even by those men. For I will tell you, Harris is poor, and his keeping in prison is principally occasioned from the manner of the reception of his punishment, which he calls his pardon. And therefore these fellows, these hummers, let them all know, whenever they come to espouse a cause of public concern against the government, they spoil it; and when they are taken, then they ruin one another. And this is like to be so, for none will help them with a groat. And this is the misfortune of that unfortunate man Harris, that he hath no place of mercy left him from the king, because he was attended with such a rabble as these people are, that have made a noise here, and yet will give him no help or assistance when he wants it: And let them know, it hath turned this man's cause into a public cause, because here are people that do espouse it, and the government is hereby concerned much more than by any one action that this Carr could have done. I have said so much more of this, that I might shew you to what a sad case this is brought from what at first it was. For if it had passed without such a noise, as you see how they express themselves, I should not have thought much matter in it; and though you had convicted him, I should have thought a better sentence might have served the turn: but they have undone Carr, if you find him guilty; and so it is likely to prove, whenever there is popular attendance upon public causes that concern the government.

The present case it stands thus: Mr. Carr, here is an information brought against him for publishing a printed pamphlet called, *The Pacquet of Advice from Rome*, and in it there are recited some particulars, which were observed to you before, which was not well done;

* See ante, p. 932.

but yet not so insolently done as some perhaps do conceit. The question is, Whether he was the author or publisher of this: you hear he is thought the author, but say his counsel; it is not plain; and that is true. But it seems by their own witnesses, to any man's understanding, that they looked upon him as the author. But then, is he the author and publisher of this particular book? I had rather Mr. Carr, with all his faults about him, and his hummers, should go away with applause, and have him found not guilty, than do him wrong in one circumstance; for I come to try causes according to the truth of fact; I come not to plead on one side nor another; not to condemn men that are innocent, nor to acquit them if they be guilty. Now it remains for you to consider what proofs you have, as to this particular book against which the information lies; and that is the printer himself, who is one of the best sorts of evidence that can be had: for you very well know that evidences of fact are to be expected according to the nature of the thing. That is, forgery is not to be proved so plainly, as to expect witnesses as you do at the sealing of a bond; for men do not call witnesses when they forge a thing. Therefore in things of that nature we are fain to retreat to such probable and conjectural evidence as the matter will bear. I believe some of you have been of juries at the Old Bailey, and that even for men's lives, you have very often not a direct proof of the fact, of the act, or of the actual killing; but yet you have such evidence by presumption, as seems reasonable to conscience. If there be a known case in men's lives, certainly that should govern in offences, and especially when offences are of a nature that reflect upon the Government. As for those words, *illicitè*, *maliciosè*, unlawful; for that I must recite what Mr. Recorder told you of at first, what all the judges of England have declared under their hands. The words I remember are these: When, by the king's command, we were to give in our opinion what was to be done in point of the regulation of the press; we did all subscribe, that to print or publish any news-books or pamphlets of news whatsoever, is illegal; that it is a manifest intent to the breach of the peace, and they may be proceeded against by law for an illegal thing. Suppose now that this thing is not scandalous, what then? If there had been no reflection in this book at all, yet it is *illicitè*, and the author ought to be convicted for it. And that is for a public notice to all people, and especially printers and booksellers, that they ought to print no book or pamphlet of news whatsoever, without authority. So as he is to be convicted for it as a thing *illicitè* done, not having authority. And I will assure you, if you find any of those papers, I shall be more merciful in the consideration of their punishment, if it be inoffensive. But if so be they will undertake to print news foolishly, they ought to be punished, and shall be punished if they do it without authority, though there is nothing reflecting on

the government as an unlawful thing. The reason is plain: so fond are men in these days, that when they will deny their children a penny for bread, they will lay it out for a pamphlet. And it did so swarm, and the temptations were so great, that no man could keep two-pence in his pocket because of the news. But still they never repented of laying out their money, till they found there was nothing against the government. This is not worth a farthing, there is nothing of treason in it, we will not give a farthing for it. Therefore this book, if it be made by him to be published, it is unlawful, whether it be malicious or not. Now for the matter, the subject matter. What, doth Carr think he hath too much wit to fool us that are to try the malice? It was sillily writ, if he did not believe we understood it, and that were very intolerable in us; I hope I speak plain: That is, the sort of books that he writ; it must be with an intent people should know what reflections he made; and shall all mankind know, and shall they that try the cause not know it? If you find him guilty, and say what he is guilty of, we will judge whether the thing imports malice or no. Sir Francis Winnington hath told you there are some things that do necessarily imply malice in them. If this thing doth not imply it, then the judges will go according to sentence; if it doth, so that it concerns not you one farthing, whether malicious or not malicious, that is plain. Now, there remains only one thing, that is, Whether or no he was the publisher of this book? For that we have this evidence. The printer tells you, he was the person that they looked upon to be the author of this book, that he sent this book to be printed by his boy. The printer saith, that he often discoursed with him, and he took it for granted. His boy brought it. To what purpose? To be printed. The printer's servant says, they looked upon him as the author, and I have fetched sheet by sheet, several sheets from his own hand. I will do right in the case, be it what it will, let him escape or not. Say his counsel, Had you this particular paper from him? I urge this as clearly, as their own counsel have objected. For that you must consider, whether he is the author of the book. You must take evidence in this case, as you do all the year long; that is, in other cases, where you know there is an absolute certainty that the thing is so: for human frailty must be allowed; that is, you may be mistaken. For you do not swear, nor are you bound to swear here, that he was the publisher of this book; but if you find him guilty, you only swear you believe it so. God help juries, if so be in matter of fact they should promise otherwise. They cannot swear it. Now the question is, Whether you have evidence enough here to swear he was the publisher: for this is the main thing, to prove that he is so. Now the printer tells you that he knew the man; that he had frequent converse with him about it, and that he took it for granted. Now consider, when a man talks at this rate, he does not say he was, but that he

took it for granted; he does not as much as say he is. They will own he writ several sheets of this book; then, why not all this book? Now we come to the more principal matter of fact, according to reason and the probable evidence of things. That this person is taken to be the author, and that it was his boy that brought these papers to be printed. If you cannot say he sent him, you can give no verdict while you live, if you expect that. The printer says, he had been often discoursing with him; that his boy brought them, and that he knew no other person in the world that had any pretensions to be the author, and if he were the author, no doubt but he is the publisher. Whether or no any body else had an hand in this, we do not know. If you are satisfied in your consciences

that you believe he is not the author, you must acquit him. If you are satisfied it is not he, you must find him Not Guilty. So that as you are honest men and wise, as I believe you are; if you believe he was not the publisher of this pamphlet, that he did not send his boy to have it printed, but that he came of his own head, you must find him Not Guilty.

The Jury went from the bar, and nigh an hour after returned, and brought him in Guilty.

L. C. J. You have done like honest men.

Mr. Recorder. They have done like honest men.

See the Proceedings against the Judges, *infra*.

268. The Trial of JOHN GILES, at the Old Bailey, for assaulting and attempting to murder John Arnold,* esq.: 32 CHARLES II. A. D. 1680.†

THE sessions began on Wednesday the 7th day of July 1680. The ninth day Mr. John Giles was brought to the bar to be tried; and there pretended that he had witnesses at Monmouth, who could testify very material things for him; and therefore prayed the court to put off his trial until the next sessions. Then the court asked him his witnesses names, and what they could say? Which he then declared to the court. Upon which Mr. Arnold, being present and prosecutor ‘(Tam pro Domino

* From the Journal of the Commons it appears that this Mr. Arnold had been very active against the Papists.

† From a pamphlet, intitled, “The Trial of John Giles, at the Sessions-House in the Old Bailey: Held by Adjournment from the 7th day of July, 1680, until the 14th day of the same month: The Adjournment being appointed on purpose for the said Giles his Trial; for a barbarous and inhuman attempt, to assassinate and murder John Arnold, esq. one of the Justices of Peace for the county of Monmouth, and now a member of the honourable House of Commons, made public by virtue of an Order of the Lords Spiritual and Temporal, in parliament assembled: London, printed by Thomas James, for Randal Taylor, and by him sold at his house near Stationers Hall, 1681.”

“By virtue of an order to me granted by the ‘Lords Spiritual and Temporal in parliament assembled, dated on Thursday the 28th of Oct. 1680; I do appoint Randal Taylor, near Stationers Hall, to print this Trial of Mr. John Giles, and that no other person or persons presume to print the same. JO. COMBE.” London, Oct. 14, 1680.”

N.B. It appears from the Lords’ Journal, that it was stated on the behalf of Combe, that he had carefully taken in Short Hand this Trial, and also those of Lord Castlemaine, Elizabeth Cellier, and Henry Care.

Rege, quam pro seipso),’ the court asked his consent, and what he could say why the trial should not be put off; that so all the world might hereafter say, That Mr. Giles had all the favour that he could reasonably desire, and what the court could in justice shew him, and that no manner of excuse might be left him.

After which Mr. Arnold, in a very pertinent speech, declared part of the fact and also of the proceedings before his wounding, as it had occurred between him and Mr. Herbert; and of his favourable and just proceedings against Mr. Herbert, and also against John Giles, after the fact was committed; and declared that Giles had sufficient notice of his trial; but notwithstanding he did submit himself to the judgment of the court.

Thereupon the court advised a minute or two’s space; it was ordered, That the court should be adjourned until the Wednesday following; by which time Mr. Giles might send to Monmouth, and have what witnesses brought up he could get.

And the day appointed being come, and the court being sat, proclamation was made according to custom. Then the following jury were called and sworn, viz. Christ. Plucknet, William Dodd, Anthony Nurse, John Burton, Nathan Godwin, George Wood, James Partridge, Lawrence Wood, John Bradshaw, William Withers, Edward Proby, Rich. Bromfield. Who according to the form of law, were charged to enquire, Whether the prisoner were guilty of the following indictment upon which he had been arraigned; and had pleaded Not Guilty?

Cl. of Cr. The Jurors of our lord the king, upon their oaths, do present, That John Giles late of the parish of St. Dunstan in the West, in the county of Middlesex, gentleman, not having God before his eyes, but being moved and seduced by the instigation of the devil, contriving, and maliciously, by a most wicked conspiracy, with divers other malefactors to the

jurors unknown, forethought and bad, intending one John Arnold, esq. a faithful subject to the king, and one of the justices of peace for the county of Monmouth, inhumanly to maim, wound, kill, and murder, the 15th of April, in the 32nd year of the reign of our sovereign lord Charles the 2nd, by the grace of God, king of England, Scotland, France, and Ireland, defender of the faith, &c. with the said malefactors unknown, at the parish of St. Dunstan in the West aforesaid in the county of Middlesex aforesaid, in and upon him the said John Arnold, then and there being in the peace of God and the king, unlawfully, voluntarily, and of his malice forethought, with force and arms; that is to say, with swords, staves, and knives, of design, and by lying in wait, did make an assault; and him the said John Arnold did then and there beat, wound, maim, and evilly entreat, and the throat and face of him the said John Arnold did grievously cut with a certain knife; also divers almost mortal wounds then and there to the said John Arnold; that is to say, one wound of the depth of seven inches in his body, between his belly and his left pap, two wounds upon his breast, and two wounds in his left arm, with certain swords, did then and there give and impose, so that it was despaired of the said John Arnold's life, and other enormities then and there unto him did bring, to the great danger of the said John Arnold, and against the peace of our said lord the king, his crown and dignity.

Mr. *Gibbs*. Gentlemen, this is an indictment against John Giles, the prisoner at the bar, for assaulting and intending to dispatch and murder John Arnold, one of his majesty's justices of the peace, on the 15th day of April. This John Giles and several others did intend to kill Mr. Arnold, and set upon him in Jackanapes-lane, threw him down, and endeavoured to thrust their swords into him; but finding no penetration there, they kneeled upon him, and with a knife endeavoured to cut his throat, and in one place made a very large gash, and cut his face; he endeavouring to keep them from his throat, they gave him a wound in his side seven inches deep, between his belly and left pap. They gave him several other wounds. To this he has pleaded Not Guilty.

Mr. *Holt*. May it please your lordship, and you gentlemen of the jury, I am counsel for the king, and the Indictment hath represented to you the most horrid, vile, and barbarous assault that has been almost ever committed, and that any man has heard of; and which I think scarce any thing in history can parallel. It was, gentlemen, in its nature most cruel, by the giving him so many wounds as are set forth in the Indictment; having first way-laid and surprized him near a place, and at such a time, as was convenient for the execution of their wicked design. This Mr. Arnold having occasion to go through Bell-Yard between the hours of 10 and 11 of the clock at night, at the end of Jackanapes-Lane, he was suddenly seized by two men, and by them hauled into the lane,

where they gave him several wounds, and used him in a most barbarous manner. And this did not arise from any private difference or animosity that they could conceive against Mr. Arnold; but from a cause more general, that is, the prosecution of the horrid popish plot; against which Mr. Arnold, as became him, and according to the duty of his office, he being a justice of the peace, was a very zealous person. Gentlemen, in the first place we will call Mr. Arnold, who shall plainly prove that this prisoner at the bar was one of the three assassins; and he proves it by a miraculous providence: For just before they seized upon him a woman in Bell-Yard held out a candle, which gave Mr. Arnold an opportunity to see the prisoner at the bar, and did perfectly discern him. Gentlemen, though this is enough, considering the integrity and reputation of the person; yet we shall fortify his evidence by strong and undeniable circumstances, circumstances that do particularly relate to this matter. In the first place, gentlemen, the very day that this fact was done, this person, though he had a good sword by his side, yet he did enquire where he might buy a more convenient sword, and did desire to know where he might have a rapier, which was thought more convenient for this design; and the very next day after this fact, though Mr. Arnold's having armour on was a secret which no persons but Mr. Walcup, a justice of the peace, and Mr. Arnold himself knew; yet this same Giles could say, Arnold had armour on; and if Arnold had not had armour on, his business had been done. And after this fact was committed, this Giles goes into Gloucestershire, and being pursued by a guilty conscience, he durst not stay there, for he was afraid, as he said himself, of being apprehended for assassinating Mr. Arnold. After this, gentlemen, he came to one Darcy a cutler in Monmouthshire, with his sword which was broken, and desired him to mend his sword. How now, says he, how came this sword to be broken? Have you been fighting with the devil? No, says he, I have been fighting with damned Arnold. And at the very same time when these villains thought they had effected their bloody purpose, and gave Mr. Arnold his dispatch, one of them said to him, Now, villain, if thou hast any life in thee, pray for the soul of captain Evans; which Evans was a priest executed in Wales upon Mr. Arnold's prosecution, at whose execution this Giles was present, and dipped his handkerchief in his blood. Now, gentlemen, considering all this, which we will make plain to you by Mr. Arnold, and all these circumstances; I suppose you will have sufficient evidence to find him guilty.

Mr. *Thompson*. My lord, and you gentlemen of the jury, the Indictment has been opened, and the matter of it, that base attempt made upon Mr. Arnold, that was a justice of the peace in Monmouthshire, that is shewed in the Indictment. But I must crave your lordship's leave, that I may more particularly open this case. This is a case, gentlemen, of very

great consequence, and though it more immediately concerns Mr. Arnold, yet it highly concerns every man present; you of the jury, and I; nay, every other freeman of England, which ought to be protected by the laws, must needs be concerned at so great a violation of them, and cannot but set our faces against such villainous and barbarous attempts as these, wherein there did not want the good-will of the actors to make it a most barbarous and bloody murder. In the course of our evidence, and the method we will take to proceed in, it will be necessary to do these three things. First of all, we shall acquaint you with that which we apprehend to be the reason and occasion of this horrid fact. Next we shall tell you what that fact was. And in the last place, enquire how far this defendant is guilty thereof.

For the first; give me leave to acquaint you with what we apprehend to be the true reason of this assassination. It is notorious to most men, but especially to the county of Monmouth, where Mr. Arnold was a justice of peace, how active and diligent, how faithful and vigorous a man he has been in the discharge of his duty to his king and country, in putting the laws in execution against the papists, and endeavouring to suppress popery: This was the ground of their malice, as you will find by the evidence, and by the several threats that he had before this act was done. But more particularly there was this occasion; there was one whom they called captain Evans, but indeed was Father Evans, a popish priest; this man in Monmouth was taken by Mr. Arnold, and was prosecuted according to law, and convicted. I mention this circumstance, because our evidence will refer to it, and that you will see out of the actors own mouths, if we may believe the actors in this bloody tragedy when they did the fact: This prosecution of Father captain Evans, was no small occasion of their villainy which they acted upon Mr. Arnold. These were the grounds of their malice, gentlemen, and what happened to Mr. Arnold was the effect. And I do the rather mention this particular, that you may know what sort of people these were that practised this villainy upon Mr. Arnold; for it will be a necessary circumstance in our proof against this prisoner at the bar, to shew that he is one of that bloody tribe.

Gentlemen, the next thing is to shew what this fact was, and how it happened. Mr. Arnold had a controversy with one Mr. Herbert, another justice of the peace in Monmouthshire: that cause between them was to be heard before the king and council the next day after this fact was committed: I mention Mr. Herbert, but I hope he is more a gentleman than to be concerned in such a villainy. We will not at this time give any evidence that relates to him: For truly I believe this could only be the contrivance of a Jesuit, and the practice of a bigotted papist. But thus it happened: Mr. Arnold going to attend his counsel upon this occasion, to prepare himself for this hearing that was to be before the king and council; in

Bell-Yard there he is set upon, there he is wounded, there he is murdered, as these assassins thought. And this Mr. Arnold will prove to you when he comes to give his evidence. This to the fact.

Gentlemen, the next is now to consider how far this man at the bar is guilty of it; and for that, gentlemen, we will give you evidence of several sorts:

1. The positive proof of Mr. Arnold himself, who, as Mr. Holt has observed before, almost by a miracle, discovered the defendant's face; for a light accidentally coming out of one of the neighbouring houses, and the defendant looking at Mr. Arnold to see whether he was the man they wanted, immediately upon that he was assaulted and carried into Jackanapes-Lane, and was wounded in several places. This, gentlemen, is plain, and will be positively proved; and then when this man was taken up on suspicion, and was carried before a justice of the peace, and Mr. Arnold was sent for, though Mr. Arnold had no private intimation, no kind of knowledge before-hand of Giles's being taken; and there were several men stood besides this man, yet though he had never seen him before, but at the time when the fact was done, Mr. Arnold immediately charged him with the fact, and as soon as he heard him speak he knew his voice. This was so plain upon Giles, that he had not the power, though he might have had the confidence, at that time to deny it: But instead of a denial said, the matter could but amount to an assault and battery. In the next place we have evidence from the defendant's own mouth, which in a case of this nature ought to weigh as much as can be, and I think is as much as the nature of the thing is capable of. This man the very next day after Mr. Arnold had been thus assaulted, discoursing with one Phillips by name, and relating the business which happened to Mr. Arnold, and before he could know he had armour on, as we will prove from the circumstance of the time (what does Giles say?) says he, Damn him, rot him, Mr. Arnold, said he, had armour on. And this, gentlemen, could not be known by him at that time, if he had not been a party in this base attempt. And there is a circumstance that goes yet beyond this, which I would have you observe, that when Mr. Arnold was assassinated, when they made their attempt, in the very act were these words used, Damn him, rot him, he has armour on. These very words were spoken then, and upon that they fell to cut his throat. We have this circumstance more; he had broken his sword, and went to a cutler, one Darcy by name; this man was a papist, and says he, Where hast thou been, Giles, fighting with the devil? No, it was with damp'd Arnold. This we will prove to you: These are evidences that are positive.

Some other witnesses we have, that will be very material to prove to you what sort of man the defendant is: that he has declared there is no plot; that those that believe it are rogues;

and if ever any of the lords in the Tower should suffer, this nation should feel a bloodier war than ever it had done; by which you may see his bloody nature. Gentlemen, besides this we shall prove (according to their custom of shamming) that he has from time to time pretended as if Mr. Arnold had done this business himself, or some of his friends, to revive the plot. A very fine contrivance indeed! for a person to stab himself, and cut his own throat, to revive the plot. These things we will make out clearly to you: And I must tell you it is a notorious crime, such a fact as has no precedent: there is no remembrance in history, that I know of, of such barbarous attempts, except in the case of sir Edmundbury Godfrey, who was most barbarously murdered by this sort of men. And this case, gentlemen, differs from that only in this, that there they accomplished their villainy upon him: but the providence of God saved Mr. Arnold's life, and I hope to as good purpose: For as providence ordered that to confirm the truth of the popish plot; so this assassination of Mr. Arnold must convince all mankind (not concerned in the plot itself) that this damned Popish plot still continues, and that it is high time for all honest men, as much as in them lies, to endeavour to suppress it. You, gentlemen, will do your duty in finding this man guilty (if the evidence we give satisfies your consciences that he is so, else God forbid), and then I doubt not but the court will do their duty, in putting such an exemplary punishment upon this villain; that may deter the like barbarous and bloody attempts for the future.

Mr. Arnold sworn.

Mr. Thompson. Pray, Mr. Arnold, give an account of this business.

Mr. Arnold. My lord, I was ordered by the king and council to attend upon them the next day after this villainy befel me. I was upon the 15th day of April in my chamber in the afternoon, and my lord Chandois and several other persons came to my chamber, and one Evans, one of the messengers belonging to the council, came to give me notice that my hearing (which I was informed was to be at four in the afternoon) was ordered to be at ten in the morning, which was the reason I sent my servants out to give notice of this alteration to my witnesses and counsel. And though I had resolved not to stir out that night, I went out with the company to the Devil-tavern, where we were, and staid till about ten or past; and just as we were breaking up, I recollected that I had some business with Mr. Phillips, who is a counsellor at law, and lives near the end of Bell-yard. I desired the company to stay, and I would come to them in a moment. I went to the room where several servants were, and called to some of them to go with me; For several of my friends and neighbours being in town, I very often took their servants with me, when mine were busy or out of the way. As I went cross Fleet-street, I did see two men in campaign-cloaks follow me,

and I thought them to be servants belonging to some of my company, who had followed me on my calling; and as I came into Bell-yard, one of them went faster than I went, and got before me, and turned and looked earnestly in my face, and I went by him, when a woman standing in a door about the middle of Bell-yard, with a candle in her hand, I looked in his face, and that person was the prisoner at the bar; and when his companion or companions came up to him, I heard them laugh aloud; I took no notice, but went on, and went as far as to that house.

Mr. Recorder (Sir George Jefferies.) You knew him before, Mr. Arnold?

Mr. Arnold. I did not know him so well before as to know his face. At the kennel at the end of Jackanapes Lane, I looking down to find the kennel, a cloak was thrown over my head, then I found very rough hands upon my shoulders, and they ran me into Jackanapes-Lane, just cross the lane, against the opposite wall, and they run my head so hard I think they broke it; I drew my sword before, but before I could use it, I was struck, and immediately upon that, one of them struck me; then I apprehended what it was, but could not turn to make any defence. I received a second blow, and fell, and the first thing I was sensible of was a very sharp quick thrust in my side, and the point at that thrust ran into my belly; then I recovering began to make what defence I could. With a broad sword I was run through my arm, and with a small weapon I was run through in another place of my arm. I had several other wounds; one of them set his foot hard upon my breast, and kept me down, and he was, as I conceive, run into the leg by one of his companions, for I heard him say, 'Damme thou hast spoiled my leg.' They laughed all the while, and were exceeding merry. I had then on a pair of bodice of whalebone, notwithstanding which I had four or five wounds in my body through them, for they were not proof, but they imagined they were, finding their swords double sometimes, and then said one of them, 'Damme, he has armour on, cut his throat.' Immediately one kneeled down, and gave me several cuts in the lower part of the face, and I did what I could to defend myself, but they have given me some indelible marks, characters that will never be obliterated while I live, and I am afraid I shall never be myself again, by reason of the bruises in my head and breast. By a candle in a window, I conceive in sir Thomas Baldwin's house, and some women in his yard, gave them the first disturbance, and a boy coming by with a link the same time. I both saw the face of the prisoner at the bar again, and remembered I saw him in the lane just before. They then pulled the cloak from off me, and I seeing the light, and being eased of the weight, I strained all my strength and cried out, and then some company came in, who are here to prove it; but seeing me all blood and dirt, they stood gazing on me a time, but at last took me up and carried me into the Sugar-loaf,

and from thence I was carried to my lodging, where all the company I left came to me, and a surgeon was sent for, who is also here to prove his knowledge of the condition he found me in. And when they went away, they did not steal away as other malefactors used to do, but clapt their swords close to their bodies, and went away laughing aloud; but as they were going, one of them said these words, 'Now, you dog, pray for, or pray again for the soul of Captain Evans.' Captain Evans was a Jesuit, and was executed at Cardiffe for being a priest; and I have been informed by several persons of good quality, that when the under sheriff came to give him notice that he had a warrant for his speedy execution, the said Evans being in a game at tennis, said 'God damme, I will play out my set first.'

Recorder. Mr. Arnold, I would know one thing: Will you undertake to swear positively that this person was one of the persons who stept before you? Will you take it upon your oath, that that person, the prisoner at the bar, went before you?

Mr. Arnold. I will take it upon my oath, as far as a man can do, for one man, it is possible, may be like another both by his voice and his face; I can swear I believe he is the man.

Mr. Thompson. You are satisfied upon the first sight that you had of him in the country, that he was the man.

Mr. Arnold. Yes, sir, and he can tell you that by a very good token, for I had like to have run him through.

Recorder. We must not expect that there can be exact and positive proof; for men that commit offences of this impudent nature do not usually call witnesses to be present to see them done; therefore we would come as near as we can to circumstances, whereby a fact of such a nature is to be proved. Mr. Arnold, do you believe that the prisoner at the bar was one of the persons that went before you in Bell Yard?

Mr. Arnold. Upon my conscience I do believe he was the man.

Recorder. What o'clock was it?

Mr. Arnold. About 11 o'clock, or between 10 and 11.

Recorder. When the link came there, was there three? And do you believe by the light you had by the link, that that was one of the persons that were there?

Arnold. I saw his face and habit, and believe he was.

Recorder. What habit had he on?

Arnold. He had a grey cloak, a campaign cloak, and a coat, I think, lined with red. It is impossible to give an account of every particular under those circumstances I was in.

Recorder. It is not to be expected that a man under your circumstances should be extraordinary precise in circumstances; therefore it is asked you, that according to the best of your apprehension, you might acquaint the court with those circumstances that may be re-

VOL. VII.

membered by the jury, that they may see there be no injury done to the prisoner at the bar, but that right be done on both sides, and that in every circumstance.

Mr. Holt. Now, Sir, we will call Mr. Phillips, with whom he had this discourse the next day.

Recorder. Will the prisoner ask him any questions?

Pris. Truly Mr. Arnold knew me in Monmouthshire, and knew me as well as any man in the city.

Recorder. Did you not very well know him?

Arnold. It is very possible I might see him, and often at assizes and sessions, but not to know him; nor did ever know whether his name were Giles, or what it was. Your lordship sees many persons here, and often, and it is possible do not know them; he lives I think a dozen miles from me.

Pris. That is a wonder; if it please you, sir, my wife is a near relation to you, both by father and mother, and I have spoken with you in your chamber.

Arnold. It is possible she may, but I do not know it.

Stephen Phillips.

Mr. Holt. Pray, Mr. Phillips, give an account of what discourse you had with Giles the day after the business was done.

Phillips. We went to the tavern, and drank two or three bottles of wine, and we had some discourse concerning Mr. Arnold; it was about eight or nine in the evening the next day, some discourse happened concerning his miserable condition, and how he was hurt, and of that nature.

Recorder. How many was there in company?

Phillips. One or two more.

Recorder. What house?

Phillips. At the Crown tavern in New-street, in Covent Garden; and among the rest, Mr. Giles was talking of it, and said he, 'God damn him, God rot him, he had armour on; the word was, 'God damn him,' or, 'God rot him, he had armour on, they say.'

Mr. Holt. What time of night was that?

Phillips. As near as I can remember, it was about eight or nine the next day in the evening.

Mr. Thomson. The very words that Arnold swears when they went to cut his throat.

Pris. My lord, if you please, there was Mr. Phillips and another; and I spake nothing but what I heard as news, that they had killed him if he had not had armour on.

Recorder. For that matter, Mr. Giles, you shall have your time, and you may call up other witnesses, but the gentleman positively swears you said these words; and if so, I will assure you it does not look as if you were a-kin to him, or your wife either.

Walter Watkins.

Mr. Holt. Mr. Watkins, what did you hear that Giles should say in Gloucestershire about this business?

4 D

Mr. Thomson. What said he about this business of Mr. Arnold?

Watkins. My lord, all I can say is this: I being at the stating some accounts between Mr. John Giles and Mr. Richmond, I asked Mr. Giles for some horsehair to make a fishing line: Mr. Giles replied, That he had left very good hair for me at a farrier's in Gloucester; for he and Mr. Herbert Jones made such haste through the town of Gloucester, that they did not call for the horsehair. I asked Mr. Giles what was the occasion of his haste? said he, for fear we should be stopped in our journey, as suspected to be concerned in Mr. Arnold's business.

Recorder. What time was that?

Watkins. About the 5th of May.

George Richmond.

Mr. Holt. Mr. Richmond, what can you say concerning this thing?

Richmond. I desired Mr. Giles to meet me, that we might even our accounts; and upon the 5th of May last he met me, and I desired Mr. Watkins to be present as a witness.

Recorder. Where was it?

Richmond. At Uske. And as we were making up the account, said Mr. Watkins to Mr. Giles, Where is the horsehair you promised me to make fishing-lines? Giles replied, He left very good horsehair at a farrier's in Gloucester: and he asked him, Why he left it? He said, He made haste for fear of being taken and stopped for Mr. Arnold's business. I cannot say whether he called him esq. Arnold, or Mr. Arnold, or what; he seldom used to give him so good words.

Walter Powel.

Mr. Holt. What do you know concerning Giles his being at the cutler's?

Powel. If it please you, sir, I was at the cutler's.

Recorder. Name the time when and the place where.

Powel. The 5th of May, at a place called Uske in Monmouthshire, Mr. Giles and I, we came there; and Mr. Giles asked Peter Darcy, Whether he would mend him that sword or no? But Mr. Darcy had some business that he could not get time to mend it that morning, but would do it in the afternoon. Says Darcy, Where have you been? you have been hot at it. What, have you been fighting with the devil? No, said he, with damned Arnold.

Recorder. What did you say when the cutler asked him, whether he had been fighting with the devil? And he said again; No, not with the devil, but with damned Arnold?

Powel. Peter Darcy said he must not speak such words; and Giles's wife plucked him by the coat, and bid him hold his tongue.

Mr. Darnal. Who was by?

Powel. There was one Peter Darcy.

Mr. Darnal. Was one John Jones there?

Powel. I think there was another indeed by, the apprentice.

Recorder. There was the apprentice, but he does not know his name, and Darcy and Giles and his wife.

William Richmond.

Mr. Holt. What did you hear Giles say about the rapier?

W. Richmond. He asked me in the afternoon before Mr. Arnold was hurt, where he might buy a very good rapier: I told him I could not tell. He then had a good back-sword in the house.

Mr. Gibbs. Tell the court what acquaintance Giles had with Father Lewis the Jesuit, since executed.

W. Richmond. My lord, he told me he would go to the executioner, and persuade him not to execute Mr. Lewis, but I had the executioner locked up, and I would not suffer him; but I did see him very active at the execution, dipping cloths in Lewis's blood.

Mr. Thompson. What do you say as to his coming to his lodging?

W. Richmond. We went to several places that day, and at eight or nine, or between eight and nine, we came to the King's-Arms in St. Martin's Lane, and I left him at the kitchen fire, and went up into the chamber and drank a considerable quantity of drink; and as near as I can guess, it was between twelve and one o'clock before he came to his bed; for after I was going to bed, about one o'clock I heard John Giles come up the stairs, and bid me good night; he called at my door just as I was pulling off my breeches to go into bed.

Recorder. What time was this?

W. Richmond. As near as I can guess, it was between twelve and one, or very near one.

Recorder. At what house was it?

W. Richmond. The King's-Arms in St. Martin's Lane.

Recorder. What did you say when the maid was making the bed?

W. Richmond. I asked her who it was for? And she said, for a man that was not willing to lie with any body.

Recorder. What time did you come to the house?

W. Richmond. About nine.

Recorder. Did you stay in that house till that time?

W. Richmond. I lay in the house, sir.

Recorder. You were not out of the house the while?

W. Richmond. No, sir, I was not out of it.

Recorder. And you are sure that you did not see him again till he came to your door going to bed?

W. Richmond. Yes, sir.

Recorder. What time was that?

W. Richmond. Nigh one.

Mr. Thompson. You see the contradiction between this, and what this fellow says upon his examination; where he says he was a-bed at nine o'clock.

Recorder. Where did you go at that time?

Richmond. We went to Long Lane, to one

Philpot's, and she told us her husband was gone to exercise at the next church; I do not know the church's name, and there we went and looked upon the soldiers, but did not see him; we came back to his house again, and the gentlewoman gave us a tankard of beer or ale. And after that we went back, and we had a mind to make sport with a country-fellow we had with us, and went into Whetstone's-Park, from thence we went to the Helmet in Drury-Lane.

Recorder. You went to Whetstone's Park, and what did you spend there?

W. Richmond. Six-pence, and he paid it.

Recorder. Whither did you go from thence?

W. Richmond. Into Drury-lane.

Recorder. How long did you stay in Drury-lane?

W. Richmond. It was not long, sir, about an hour.

Recorder. Where after that?

W. Richmond. From thence to the Peacock, and staid till eight or nine.

Recorder. Who did you meet withal between your going from the Helmet in Drury-lane to the Peacock?

W. Richmond. We met with one Powel and another, and one Elizabeth Edwards.

Recorder. What did you drink there?

W. Richmond. We did drink both ale and brandy.

Recorder. Well said: How long did you stay there?

W. Richmond. We staid there a pretty while, an hour or more, or two hours.

Recorder. What time of night was it that you went from thence?

W. Richmond. About eight or nine.

Recorder. And then you went to your lodgings?

W. Richmond. Yes.

Recorder. Did you drink at the King's-arms?

W. Richmond. No, we drank not all together.

Recorder. And there you staid till twelve or one o'clock.

W. Richmond. Yes.

Recorder. But can you remember, as near as you can guess, what time was it you saw this maid making of the bed?

W. Richmond. I cannot say positively, but I judge it was about twelve o'clock.

Mr. Thompson. As to that circumstance of his coming home at twelve at night, desire Mr. Arnold to give an account of his examination what time of night he came to his lodging.

Mr. Holt. Do you believe that is John Giles's hand?

Recorder. That is a copy.

Recorder. He did confess it before a justice of the peace, that he was at his lodging at ten o'clock: This I heard him say, and I believe he won't deny it; and I heard him own this examination, my man will prove it.

Giles. Deny it? Yes, I will deny it, there was no such word said: I did say, Mr. Arnold, I went to bed then.

Att. Gen. (Sir Creswel Levinz.) The jury

must take notice of this; that upon his examination he says, he came home by nine; which is before the thing was done: But by proof he did not come in till twelve, which was after the thing was done.

Holt. We will give you now, gentlemen, an account of this man's principles.

Recorder. This is the business: Richmond says, they came together to their lodging before night, but he left him at the kitchen fire, and went into another room to drink with some company; and this Mr. Richmond says, his bed was not made till twelve o'clock, and that he himself went to bed about one of the clock, and that he heard the prisoner at the bar, while he was pulling off his breeches, call to him, and therefore he took notice of that as a circumstance, that he does particularly remember he did not go to bed till that time; and he says he did not stir from that place after nine o'clock.

Mr. Thompson. There is a contradiction in that.

Recorder. There is no contradiction: The other witness says, that he came along with him at nine o'clock.

Mr. Thompson. I will tell you where this is a contradiction.

Att. Gen. He says he came to the house at nine o'clock, but he came not to bed till after one.

Recorder. The evidence does not go so far: Richmond says they came to the King's-Arms, and left him in the kitchen at nine o'clock, and he went into his chamber and staid up till one, and all that time he did not come to bed.

Mr. Thompson. So far it lies upon him to give an account where he was between nine and twelve.

Bridges.

Mr. Holt. Hark you, sir, have you had any discourse with Giles concerning the Plot, and concerning the lords in the Tower? And what did he say to you?

Mr. Bridges. I had some discourse with him concerning the papists; he that said that it was the best religion, and those that were not of that religion should be damned: I alledged against him, and told him the contrary: I thought not. Can it be such a religion, said I, that will act such things against the king and the government? Says he, if any says there is such a Plot against the king or the government, he is a rogue and a thief.

Mr. Holt. What did he say of the lords in the Tower?

Bridges. Nothing more.

Giles. How long ago was this?

Recorder. When was this?

Bridges. This was, my lord, about a twelve-month ago.

Mr. Thompson. Did he speak any thing to you further concerning the Plot?

Bridges. Not further.

Giles. My lord, I beseech you I may speak to this man. Do you hear, sir, were not these the words that I said when you charged me to

be a papist, that I knew of no popish plot, and they that said I was a papist, or knew any thing of the Plot, were rogues or whores or worse?

Bridges. You said thus, that the papists were the best religion, and that those that were not of that religion were damned:

Giles. Have not you been a papist, sir?

Bridges. I am not now.

Giles. Will you say that I am a papist?

Bridges. I say you defended it so much, I thought you were. Said I; I wonder, it being such a good religion, that they would offer to act such a thing against the king and government. Said he, he that says this Plot is acted by the papists, is a rogue and a thief.

Giles. How long ago is this?

Bridges. A twelve-month ago; you remember it well enough; you remember when you sent for me to the George.

Walter Moor.

Mr. Holt. What discourse have you had with him concerning the Plot?

Mr. Thompson. What has he said about it?

Moor. He said, if the lords in the Tower were executed, there would be a greater war than ever was in England, and swore that if these lords were put to death, it would cost more blood than ever was spilt. And I asked him again, why they should not be put to death if they should deserve it? For if a poor man had done such a fault, he would be hanged out of the way presently. He said again, they did not deserve it, for there was no plot at all.

Giles. Pray, sir, who was with you when you say I said these words?

Moor. I was at George Taylor's house.

Giles. Did not you say that George Taylor discoursed this with you?

Mr. Thompson. Is this the man that spake it, upon your oath?

Moor. Yes, this was the man.

Giles. What did Taylor say to you? Do you think, my lord, I would say such a thing to such a man as this is?

Recorder. Do you hear, Mr. Giles, for that matter is not the question; the man has sworn it; except the jury know of their own knowledge that the man is perjured, he is not so as to me.

Moor. It is the first time that I ever took an oath.

Mr. Reynold.

Mr. Holt. Mr. Reynold, What have you heard Giles say concerning Mr. Arnold?

Reynold. Sir, I was in company with John Giles and another, and we had discourse concerning one Arnold, and John Giles said—

Recorder. What was that?

Reynold. I being in company with him, we fell in discourse about Justice Arnold, how he was wounded.

Recorder. Where was it?

Reynold. In Monmouthshire, at Langoone, the second day of May: John Giles answered us, that he could not see but he wounded himself.

Recorder. What day did you say?

Reynold. The second day of May.

Recorder. He did discourse the 5th day of May at Uske, I would fain know when he came through Gloucester.

Mr. Thompson. What did he say about Mr. Arnold?

Reynold. He thought that he wounded himself. Says his wife, how could he wound himself in his arms? Said he, it was himself, or some of his friends.

Recorder. Or some of his relations.

Reynold. Some of his friends.

Mr. Hobbs.

Mr. Thompson. Mr. Hobbs, Pray tell how you found Mr. Arnold when he was wounded.

Hobbs. I found Mr. Arnold bleeding.

Mr. Thompson. Tell what wounds they were.

Hobbs. Two in his arm, two others upon the face, another upon the throat, which bled very much; another two upon the breast, and one in the belly.

Mr. Thompson. What depth might that be?

Hobbs. Two inches and a half long.

Mr. Thompson. Where else?

Hobbs. There was another upon his breast.

Mr. Thompson. What depth?

Hobbs. They were not very deep, but there was one upon the belly six inches and an half; there were two through his arm, and a wound and several bruises in his head.

Mr. Thompson. This is likely to be a fine contrivance, that he should do it himself, as likely as that sir Edmundbury Godfrey put his own sword through his own body after his neck was broke. [A great shout given.]

Lord Mayor. Do you believe a man could wound himself so?

Hobbs. No, sir.

Recorder. I believe a man could do it, but I believe a man would not do it himself.

Fifteen or sixteen witnesses more for the king, that were attending in the court, were not examined, the court being in some haste and the king's counsel not pressing to have them examined, there being so full evidence: nor was there one word replied to the prisoner's witnesses, they being all either frivolous or contradictory.

Mr. Darnal. May it please your lordship, and you gentlemen of the jury, I am of counsel for Giles, the prisoner at the bar, and I must needs say there has been a strong evidence given against him; and if I were sure he was concerned in this barbarous attempt upon Mr. Arnold, I would not open my mouth in this cause: but if my brief be true, I make no question but to satisfy your lordship and the jury, nay and Mr. Arnold himself, that he had no hand in this bloody action.

And first, my lord, in answer to the evidence that hath been given, there have been sworn among others, Mr. Richmond, Mr. Phillips, and one Powel. First, as to Phillips's evidence, or what passed in discourse at the

Crown tavern in Covent-Garden; we have a witness here who was present at the same time, that will give you an account of the whole discourse, and that there were no such words said by Giles in relation to Mr. Arnold, as Damn him, he had armour on; and as to the evidence given by Watkins, of what passed at Uske, about Mr. Herbert Jones's and the prisoner's making such speed through Gloucester, we have witnesses, here, my lord, that will satisfy your lordship and the jury, that when they came to Gloucester, though it was at the time of the general quarter sessions, yet they staid there four or five hours, at a public-house, without the least sign of their apprehension of any pursuit; which shews the improbability of any such discourse at Uske; and, my lord, as to the evidence of Powel of what was said in Darcy's the cutler's shop at Uske; we have, my lord, a witness here that was present at that time, who will give your lordship and the jury an account, that the words said then by the prisoner did much differ from what Mr. Powel swears; besides the improbability that any man should be so weak to publish himself guilty of such a crime as this in this manner; after his majesty's proclamation out, with the promise of so great a reward to any man that would make a discovery of this horrid action: so far, my lord, we shall answer the evidence that hath been given; but to satisfy your lordship and the jury, that it was impossible the prisoner at the bar could be concerned in this foul action, we shall prove to your lordship, that upon the 15th of April, upon the evening of which day this bloody attempt was made upon Mr. Arnold, the prisoner at the bar came first to town; and we shall prove that he came to town but at one o'clock that day. We shall prove further, if my brief be true, by five or six substantial witnesses, against whom there can be no exception, how and where he employed himself all that day, from the minute that he came to town: and that when he returned to his inn, about nine o'clock at night, the maid of the inn locked his chamber-door, after he was a-bed, and kept the key of the chamber all night. And, my lord, if all this be clearly proved, I make no doubt but your lordship and the jury, and all persons here, will be satisfied that the prisoner at the bar is not guilty of this indictment. My lord, we will first begin with Mr. Philpot.

Mr. Philpot.

Mr. Darnal. Mr. Philpot, pray do you acquaint my lord, and the jury, what discourse passed between you and Giles at the Crown tavern in Covent-Garden.

Philpot. We drank one bottle of claret, Mr. Phillips came in when the bottle was almost ended. But by and by some friends came in, and they asked him what news, sir? Said he, I hear of no news but a cruel assassination upon Mr. Arnold, but for my part I am sorry for it: but, said he, if any thing should be upon Mr. Arnold, it is a very strange thing.

Mr. Darnal. Were you there all the time, Sir?

Philpot. Yes, sir, all the time.

Darnal. And you heard no other discourse?

Philpot. No, he did not say 'damn him' nor 'sink him,' for I hate such company.

Mr. Holt. Mr. John Philpot, where do you live?—Philpot. In Long-Lane.

Mr. Holt. What sign do you live at?

Philpot. At the Crown.

Mr. Holt. What trade are you?

Philpot. A salesman.

Mr. Darnal. Now we will go on to the discourse at Uske, about their passing with such speed through Gloucester.

Recorder. Mr. Darnal, they do not pretend you were in great fear, but they say you said so. It is not the question, whether you did stay long at Gloucester, or no? But the question is, whether you told this man so? Because the man asked you, why you would leave the hair at the farrier's, in order to a fishing-line? Truly I was in great haste, for fear I should be taken up about the business of Mr. Arnold.

Mr. Darnal. It is very true, and therefore we bring this evidence to shew the improbability that we should say any such thing; when it was false, and especially when it was to accuse ourselves of a crime.

Herbert Jones. Mayor of Monmouth.

Mr. Darnal. Mr. Jones, pray give an account to the jury of your passing through Gloucester, and how long you staid there.

Jones. My lord, I came with the prisoner.

Recorder. What day did you come through Gloucester?

Jones. I cannot positively tell you the day: we went out of town upon Friday, we came to Gloucester either Wednesday or Friday, and there we went to the Old Bear in Gloucester, and there staid an hour before we went to dinner; it was a public time, the quarterly sessions, and several people came to us to hear the news; we told them, and were as sorry for it as any persons could be, and did confess it a very ill thing. We went from the Old Bear after we had dined to the New Bear, and drank several pints of cyder. I believe by the oath I have taken, we were several hours in the town.

Mr. Milbourn. Do you know Mr. Arnold is acquainted with Mr. Giles?

Jones. I do believe Mr. Arnold has great reason to be acquainted with Giles.

Mr. Thompson. Yes, now he has.

Mr. Milbourn. Was he chief constable?

Jones. Yes, he was; and certainly Mr. Arnold in reason would take notice of the chief constable.

Mr. Milbourn. Mr. Herbert Jones, I am informed that you know this gentleman goes to church and receives the Sacrament. Give an account what religion he is of.

Jones. Always a Protestant; I saw him at church within this half year.

Giles. I can shew a certificate of my going to church since I came to town.

Recorder. There are many people that go to church to serve their turn.

Giles. And, my lord, I have taken the oaths of allegiance and supremacy.

Mr. Thompson. An excellent protestant to discourse so of the Plot, I must needs say that.

John Jones, the Cutler's Apprentice.

Recorder. How old are you?

Jones. Between fifteen and sixteen.

Recorder. Hark you, do you know the danger of forswearing yourself?

Jones. Yes, Sir.

Recorder. What is it?

Jones. I am in danger of everlasting fire.

Recorder. Very well.

Mr. Darnal. My lord; this is the apprentice to the Cutler; in whose shop Powel says we had such discourse: Jones, pray tell my lord and the jury, whether you were by when one Walter Powel came into your master's shop, when he and Giles were talking about Giles's sword?

Jones. Sir, John Giles came in the morning and brought a sword, my master was not within; and he told me, give this sword to your master to be mended; so I took the sword and laid it up till my master came in: when he came in, I told my master of it; and when he came again, this Walter Powel was in the shop: said Giles to my master, Did you mend my sword? says he: says my master, Mr. Giles, How came your sword broke? Have you been fighting with the devil? No, says he, for I never met with Arnold.

People. Hiss 'm, hiss.

Recorder. It does not become the decency and gravity of a court of justice; to be humming and hissing when facts are trying of this great concernment.

Mr. Milburn. It was the common discourse there that Mr. Arnold had been assaulted.

Recorder. You have been in a great combat; have you been fighting with the devil? What did he say to that?

Jones. He never met with Arnold; my master asked him, Mr. Giles, Have you been in some battle or other? Have you been fighting with the devil? No, Sir, for I never met with Arnold.

Recorder. You did not hear his wife bid him hold his tongue?

Jones. No, sir.

Mr. Thompson. Did he tell you how he did break his sword?

Jones. No, sir.

Giles. My lord, here is Mr. Philpot can tell, that I was sitting down in a chair, and broke off a piece of the guard.

Mr. Thompson. You will do well to prove it, Sir.

Mr. Milburn. Was there any discourse in the country about Mr. Arnold?

Recorder. Did they not talk any thing about killing the devil?

Jones. No, sir.

Mr. Darnal. If your lordship pleases, we will call witnesses to give an account when we came to town, and where we were all that day; and we will call the maid that locked the chamber-door after we were in bed, on the same night when this fact was committed.

John Howel.

Mr. Darnal. John Howel, pray tell my lord and the jury when Giles came to town?

Howel. If it please you, my lord, I came to town, and John Giles together.

Recorder. What time of the day was it?

Howel. It was twelve o'clock.

Recorder. Who is thy master?

Howel. William Richmond.

Mr. Darnal. What time of the night was it, friend, when you heard him call to your master, and bid him good night?

Howel. About 11 or 12 o'clock.

Mr. Milburn. You say about nine you were at your lodging with him? Did your party company with him?

Howel. Yes, Sir, we did.

Mr. Thompson. Where did you go at that time?

Howel. We went into the chamber, and drank 2 pints of brandy.

Mr. Thompson. What time of night was that?

Recorder. After 2 pints of brandy, I wonder how he can remember any thing.

Ann Beron.

Mr. Milburn. Tell what time of the night Giles came in; where you were in his company; what time of night it was?

Recorder. Speak as loud as thou would'st do if thou were at home: When was this?

Ann. The Thursday after Easter.

Recorder. The Thursday in Easter-week, or the Thursday in the next week?

Ann. The Thursday in Easter-week; we were never out of company; when he came home to his lodging I believe it was near ten o'clock.

Recorder. Where was your lodging, at the King's-Arms?

Ann. At the King's-Arms.

Recorder. Good woman, did you go with him to Whetstone's-park?

Ann. No, not I.

Recorder. Were you with him at the Artillery-ground?

Ann. No, not I.

Recorder. Were you with him in Drury-lane?—*Ann.* No, not I.

Recorder. He did not go out of your company at all?

Ann. Yes, about ten o'clock.

Recorder. Woman, you must be mistaken; he came to town at twelve or one, and might be in thy company: But it is plain he went to a broker's in Long-lane, and so to the Artillery-ground at Cripplegate, for I guess it might be so; then they went to Whetstone's-park, and spent sixpence, and after that they went into Drury-lane.

Pris. My lord, she don't say she was with us all the while; but we came to an house where she was, and several other people our neighbours.

Recorder. She says you did go out some time: Now see whether I mistake you.

Ann. Yes, you do mistake me.

Recorder. He went out, did he?

Ann. Yes, he went out after he came into the city, he and some others, and then they came back to me again in 2 or 3 hours.

Recorder. Then you were two or three hours at dinner. Now I ask you, after they came back, was you with him all the while?

Ann. Yes, that I was.

Recorder. Where was it?

Ann. At the Peacock.

Recorder. That is the place in Drury-lane.

Ann. No, indeed, it is in Covent-garden.

Mr. Darnal. When did he go to bed? Do you know that, upon your oath?

Ann. We were in the inn between 9 and 10 o'clock, nearer 10 than 9, and I saw him sitting taking a pipe of tobacco.

Mr. Darnal. What time was that?

Ann. A little after 10, I believe.

Mr. Thompson. He sat there till he was called away to do his business.

Elizabeth Crook.

Mr. Darnal. Elizabeth Crook, pray do you tell my lord and the jury about what time Giles went to bed?

Crook. Indeed, Sir, he went to bed between 10 and 11.

Mr. Darnal. How long was it that he came to his lodging before that? Can you say how long he was in the house before he went to bed?

Crook. I asked him if I should take away his candle; he said he would put his candle out, but I might lock him in and take the key, but I did not do it.

Mr. Thompson. Did he go to bed as soon as he came in?

Crook. No, I think he did not.

Recorder. You made the bed, did not you?

Crook. I did.

Recorder. Upon your oath, what time of night was it?

Crook. I think it was nearer 11 than 10.

Recorder. Did you make the bed after he went into it? what time did you make the bed, upon your oath?

Crook. I made the bed about 10 o'clock.

Recorder. I ask you, Do you remember Richmond came in to you, and asked you any thing about making the bed? Do you remember he was in the chamber?

Crook. In whose chamber?

Recorder. Did Richmond come in when you were making the bed?

Crook. He was not there, as I knew of.

Richmond. Was not I in the chamber when you made the bed?

Crook. No, I don't remember you.

Richmond. My lord, when this maid went to

make the bed, I went into the room after her, and had some discourse with her; we leaned together upon the window, and I told her I was in love with her; I told her if she liked of it, I would marry her the next morning; I did it to make merry, for indeed I am a married man.

Recorder. What time of night was it?

Richmond. About 12 o'clock.

Recorder. If you forget your other sweet-hearts, can you remember this? Do you remember now he was there?

Crook. I remember he was there.

Pris. Mr. Arnold, pray do not laugh at my witnesses, and make may games at them; it is not the part of a gentleman.

Richmond. And she told me that he should lie by himself, though the house was very full.

Recorder. Do you remember any such discourse?

Crook. I do remember that Mr. Richmond did come in.

King's-Counsel. What time of night was it that he was making love to you?

Crook. I think about 10 o'clock.

King's-Counsel. Time passed merrily away with you, then.

Richmond. It was 12 o'clock.

Crook. Why do you say so? Our house was all quiet presently after eleven.

Richmond. Why will you say so? Were not we singing and roaring together?

Recorder. Come, do not be angry, you were not nagry when you were making love together.

Richmond. I am not angry indeed, Sir.

Edward James.

Mr. Milburn. Tell my lord what time of night Giles came into his lodging, and where it was?

James. It was in Easter-week he came in, and so we were drinking at the King's-Arms in St. Martin's-lane, and from dinner, and from 9 o'clock.

Recorder. How! You did not dine there, you dined at the Peacock.

James. Yes, we dined there, but from 9 o'clock we were there till 12.

Recorder. How do you know?

James. I was there with him.

Recorder. After 12 o'clock you say you left him?—*James.* Yes.

Recorder. Where did you leave him?

James. In the kitchen.

Recorder. Are you sure?

James. Yes, my lord, I am sure of it.

Recorder. I ask you, because I have an unhappy memory: You are sure it was 12 o'clock when you saw him in the kitchen, and here is a maid saw him go to bed at 11.

Recorder. Have you any more? You know the matter that was the ocasion of the dispute the other day: I would not by any means, that in a cause of this public concern, there should be any pretence for any to say they were surprized; therefore call as many witnesses as you please.

Robin Gibbon.

Mr. Milburn. What can you say, when Mr. Giles came into his lodging?

Gibbon. It was about 10 o'clock. I gave his horse about half a peck of oats.

Mr. Milburn. Where?

Gibbon. At the King's-Arms in St. Martin's-lane.

Mr. Milburn. Do you know how long he staid before he went to bed?

Gibbon. No, Sir, I cannot tell.

Mr. Thompson. He speaks honestly, this man.

Recorder. Have you any more?

Giles. There is another, a translator, my counsel knows his name.

John Chadwick.

Recorder. What is your name, Sir?

Chadwick. John Chadwick.

Recorder. Go on.

Chadwick. I say, this John Giles was at my house between 8 and 9 o'clock.

Recorder. Where is your house?

Chadwick. My house is ———

Recorder. Can you say any more to it?

Chadwick. No.

Elizabeth Crook.

Recorder. What have you to say?

Crook. Sir, I went with Mr. Giles home, and it was between 9 and 10 o'clock, and I saw him in his lodging, and I saw him in the morning.

Recorder. Are you sure he went to bed when you made it?

Crook. It was between 10 and 11 o'clock.

Mr. Thompson. You see how they contradict one another.

Recorder. Is your name James?

James. Yes, Sir.

Recorder. You say, you are certain you left him in the kitchen at twelve?

James. Yes, Sir.

Recorder. But here is one that says he went to bed by eleven.

James. O Lord, no, Sir.

Mr. Holt. These are your own witnesses, Mr. Giles.

Mr. Thompson. You see how they contradict one another.

Peter Powel.

Powel. My lord, I met some of my countrymen about an hour before night.

Mr. Thompson. What day?

Powel. About Thursday, Sir.

Mr. Thompson. What week was it in?

Powel. I believe in Easter week, and I heard them say that Mr. Arnold was come to town, and Mr. Herbert and he was to have an hearing the next day.

Recorder. How long was you in his company?

Powel. I had been in my friend's company about an hour before he came, and we staid till near 9 or thereabouts, and then we parted, and I never saw him afterwards till last Monday was seven-night.

Roger How.

Recorder. What say you?

How. Mr. Giles was in my company, and staid till about 9 o'clock, or thereabouts, and then we went away, and I saw him no more for that night.

Recorder. Have you any more?

Giles. No.

Then Sir George Jefferies the Recorder gave directions to the Jury to this effect:

Gentlemen of the Jury, the evidence has been very long, and I know you have taken particular care to write down and take notice of all the circumstances that have been offered to you in this case: According to the best of my memory, I shall refresh yours with such of them as I apprehend to be most material in this cause; and if any thing happened to be omitted, others will supply it.

In the first place I am to take notice, and I think I am bound to do it in discharge of my own conscience, and of my duty to the court, that certainly, if the prisoner at the bar be guilty of the offence of which he now stands indicted, the punishment that we can inflict upon him, cannot be proportionable to the offence: For the offence is too great for any punishment that the law can inflict, for men are not presumed to be guilty of such actions as this; and therefore the law has not proportioned punishments to them, because it presumes no man to be guilty of so base and barbarous an action as this; and because it never could be presumed that any man would be guilty of such offences, therefore, the law has not provided punishment proportionable to them. But this is not your question, the question before you is, Whether this man be guilty or not guilty? That there was a popish plot, no man sure doubts at this time of day. Certainly there can be none here under so strange an infatuation, as in the least to doubt but that there was a plot, especially when so many persons, upon full and clear evidence and trials, have been convicted as instruments in that bloody tragedy. But you are not to make use of these things by way of evidence against the prisoner at the bar: But only in the general to premise some things by way of introduction to their particular evidence; and I must plainly tell you (for it is fit it should be mentioned), that if any villainy can come near that horrid murder of sir Edmund-bury Godfrey, this does; and I am sorry with all my heart, that within the government of the city of London, or so near it, there should be such a barbarous attempt as this made and concealed so long. It would not be strange to hear of such villainies committed in other Popish countries: But for the honour and credit of that religion which I hope we shall maintain with our lives, that is, the Protestant religion, I say in a Protestant country, where the Protestant religion is professed, I never heard of such a barbarous act committed before this one; because our principles of our

religion will not allow us to commit such villainies by any dispensation whatsoever. Justice and truth, and righteousness, are the things that our religion teaches us. God Almighty, and our blessed Saviour Jesus Christ, by whom alone all mankind must be saved, have commanded the contrary.

Their religion may dispense with such villainous actions; but this I can say in vindication of ours, ours cannot do it; nay, it would be no religion if it could.

In the next place, gentlemen, all circumstances of time and place, of men and things, should be taken notice of; for dark cases must be made appear by circumstances: for as I hinted before, no body calls witnesses when they do such facts and works of darkness, the works of the devil, that is the father of all such works. I do not mean the devil, Mr. Arnold, but I mean they are the works of the devil: Beelzebub himself, the prince of devils, can be only an instrument and an agent in affairs of this nature.

Another thing that is fit to be taken notice of by you, is this, that by way of circumstance, whatever has been said one way or another, relating to the Plot, relating to the business of sir Edmundbury Godfrey, is not to be taken notice of as evidence against the prisoner. You shall have a faithful account of what has been said by every witness, both for and against him; for right is to be done. Our law comes even to a proverb, "We must give the devil his due;" we must give every body right. You know that this business was deferred, that the prisoner at the bar might be left without all manner of excuse; for if innocent, all mankind would be glad to have him cleared; if guilty, every honest man would have him convicted. Now this being premised, the evidences against the prisoner are several, and I will, as far as I can, give you an account of them. And

First of all, It is not doubted but Mr. Arnold has behaved himself like an honest man, and as every honest man ought to do for the interest of his religion; for there is no man can do too much, if he does it legally, for the preservation of his religion; of that religion which he is bound to rely upon for the salvation of his immortal soul. Now, says Mr. Arnold, in the first place he gives an honest account of his being one night, one Thursday night in Easter week, at the Devil-Tavern, about nine or ten o'clock, with some friends, and he went out between ten and eleven o'clock, and his own servant not being there, he did intend to call some other servants by; but as it happened, he went away without them, and he perceived two men in campaign-cloaks follow him into Bell-yard. He does take it upon his oath, that about the middle of the lane, there happened to be a candle coming out, and one of these two, that he did so observe to dog him, having a campaign-cloak upon him, and likewise a coat lined with red, he did observe came before him; and he doth take it upon

his oath, that he does believe the prisoner at the bar to be that very man that so came before him; he does say that he had a perfect sight of him, and he does say, that the reason why he should believe him to be the man, is, that he does remember his face, and knew his voice. He tells you likewise that there were persons cast a cloak over his head, ran him into Jackanapes-Lane, fell upon him, bruised his head, and wounded him in several places; particularly he mentions, that there was at the same time said by one of them, "Pray for the soul of captain Evans;" and at the same time, which is a wonderful circumstance, "Damn the dog, he has got armour on, cut his throat." He says that one man held him up by the chin, having several passes made at him, and he says he had something or other to preserve him; but notwithstanding that, he was run into the side; there were three men, he does tell you, and that one overtook him in Bell-yard, and he continues to swear it was the prisoner at the bar, according to the best of his understanding and conscience; he says it was he, and he discovered him by the sight of a candle. Besides this, which is a material circumstance, some other persons being brought to Mr. Arnold about it, Mr. Arnold did not tax them, but did positively tax that person to be one of the persons. But he tells you he suffered by passion, as I cannot blame any man for being in a passion at such a time. But his witnesses determine the thing, that that is the man, and he did positively say it, his memory being better settled than he could at first pretend to; but however, he gives that for another evidence, that he was not deceived in the person. This is the substance, as I remember, I would not do any injury to the prisoner, by repeating any thing that has not been said; nor would I do any injury to the evidence for the king, in omitting any thing that occurs to me. The next is one Philips, and he tells you that the next day, being Friday, about six or seven o'clock at night, he happened to be in company with him at an house in Covent Garden, and having some discourse concerning Arnold, and concerning that bloody, base and foul attempt that was made upon him, and was so far from having the bowels of an Englishman, or any thing of Christianity in him, that he does say he broke out into this extravagant expression, "Damn him, rot him; he had armour on: Damn him, rot him; he had armour on." I speak it twice over, because Mr. Arnold tells you that the persons during the fact was committing, said, "Damme, cut his throat, he has armour on." The next person comes and tells you, at a certain place in Monmouthshire, upon the 5th of May following, that he went with one of the Richmonds to this Giles, and had some discourse: Says he, "How chance you have not been as good as your word, about providing me horse hair to make fishing lines, and you promised to leave it at the farrier's in Gloucester?" How chance it was not so? He immediately

adds, 'We were in such extraordinary haste, because we thought we were pursued about the business of Arnold.' And that he gives as the reason why he did not stay at Gloucester. If in case it had not been so, why should he come and tell him he could not stay about the business of the hair, because he was like to be pursued about the business of Arnold? The next thing, gentlemen, is concerning one Powel; Powel, he tells you, that he being at one Darcy's house, a Roman Catholic, that is a sword cutler, that lives, I think, likewise at Uske: And it seems the prisoner at the bar came to him to have his sword mended. By the way, I should have told you that the prisoner at the bar, before the fact was done, did enquire at a place where he might have a good rapier: that was before the fact was done. The witness spake of it last, which was the occasion that I did not give it you in order. He asked where he might have a good rapier?

But now to come to Darcy: Darcy having been very familiar with him, enquired, wherefore, having had his sword so lately, he should have it to mend already? 'Have you,' said he, 'been fighting with the devil?' Immediately upon that he swears the prisoner returned, 'No, but with damned Arnold.' And upon that his wife plucked him by the coat, and bid him hold his tongue. I think that is the substance of what he swears. He says there were by at that time the prisoner at the bar, the apprentice to this Darcy, and a woman that is the prisoner's wife.

William Richmond, he comes and gives you a further account, that he being in his company, he tells you, they went to some place in the city to enquire after their friends, and afterwards went to the Artillery to see the exercise, then to Long-lane, from thence to Whetstone's-park, and afterwards to Drury-lane; and that about nine o'clock at night they came to their inn, and he left Giles taking a pipe of tobacco in the kitchen, and went up into his chamber with some other people, drinking and making merry; and he does positively say, that between eleven and twelve o'clock at night, he saw the servant maid come up into the room, and did see she was making the bed; that he seemed to be a little surprised that any body should make a bed at that time of night, which occasioned him to go in to her, and ask her the question. The answer that he had was very material, that she said, 'There is a gentleman below that I must make this bed for, he does not desire to have any body lie with him.' That was the answer the maid gave. There was, he says, some little talk of love between him and the maid, and that he positively says was near upon twelve o'clock. He says that after this, he went into his own chamber, and continued in his own chamber till nigh one; and about one being pulling off his breeches, the prisoner at the bar came and knocked at his chamber-door, and spake to him, and that was near one o'clock at night. But it is plain, during that time, the prisoner

was not in his chamber, if you believe him; nor indeed is there any account given of the prisoner from nine o'clock till near one, till he knocked at his door, as he was pulling off his breeches and going to bed. As to the answers that are given by the witnesses of the other side, I shall give you them when I descend to give the testimonies of the other side.

To give you yet this further testimony, say they, We do not only give you this testimony that he is guilty of this fact, but we do give you an account of him, that he is very likely to do such a thing; for he is an ill man in himself. As on the other side, no man can give a better testimony to himself in matters that are dark and obscure, than the testimony of his conversation, that he is upright in his conversation, and therefore cannot be thought guilty of so base an action: So they think they give a good evidence against him, and that he is an ill man in himself; and therefore because he is an ill man, he may be guilty of such a thing.

And to prove that, they call up these witnesses.

First of all, one Bridges comes and gives you an account, that discoursing with him concerning the papists, he damned the Plot, and said that all were rascals that were not papists; and if in case that the lords that were in the Tower should happen to suffer, it would be a bloody day, and it would make a bloodier work in England than ever was known: Which shews he is a bloody ill man. The prisoner asked him, If he were not a papist? It is likely he was a papist before, or he would not have trusted him so. And this is one circumstance to prove that he is an ill man, that he hath given out such and such expressions.

There is another, one Reynolds, who comes and gives you an account of his having some discourse with him afterwards about this business of Mr. Arnold, that the prisoner talked slightly of it, and said that he might do it himself.

This, gentlemen, I take in general to be the substance of what has been offered for the King. If there be any thing else that does not occur to my memory, if it doth to yours, you will do well to consider of it.

Say the counsel for the defendant, and that every man of the Long Robe ought to say, that if the person, which is the prisoner at the bar, were guilty of such a barbarous thing as this, no man would offer to open his mouth. And therefore they offer evidence for their client as they are instructed to offer to you, and you are to try whether their client be guilty.

Say they, You first call one Philips to give an account; and as to what Philips says about the business in Covent-Garden, about damn him, and rot him, they bring one that was there all the time, and says he, I was by all the time, and I heard no such words. So far was he from making any particular reflections upon Mr. Arnold, that he cried it was a very horrible, a very barbarous thing. Nay, says he, to give credit to this testimony of his, I never use to

keep company with them that use such words, as damn him, and rot him, as he says.

The next witness is Mr. Herbert Jones; he comes and tells you, I went with him from London, I went with him to Gloucester, I staid at an inn called the Old-Bear, and staid and dined with him there. I went after that to the New-Bear, we went thither and drank cyder together; and this was very public: For several persons that lived in the town, came to us and enquired after the business of Arnold; and if in case we had been under any such jealousy as that was, we would not have staid so long, as, says he, we did. Say they on the other side, We do not say that you did not stay in Gloucester; but, say they, by way of objection against the prisoner at the bar, we say that you yourself, on the 5th of May, said, in answer to the person that came to ask you, Why you had not brought the hair, that he might go a fishing? You said, We durst not stay for fear of pursuit upon the account of Mr. Arnold. This you yourself said, and by saying so, you have contracted that guilt in point of circumstance, which is objected by us against you. This is the answer given to that that Mr. Jones says.

The next person that comes to give you an account is one John Jones, who is the apprentice; Says he, you bring a witness against me that I said such a thing at Uske, at Darcy's the sword-cutler's; and you say the apprentice was by: And he gives you this evidence: Says he, I was by at such a time as the man speaks of, and being by at that time, I do very well remember, that there was a discourse concerning some great conflict that Mr. Giles had been in, and that Giles's wife was by, and so was the other person that gave the evidence, that such a discourse there was of fighting with the devil; but now he inverts the saying of the other man, and says that he should say, He never met with Arnold the devil. The one answers, when the thing was asked him, Whether he had been fighting with the devil? No, not with the devil, but with Arnold; the other swears, He did not meet with the devil Arnold. He tells you likewise, his wife did not pull him by the clothes, and bid him hold his tongue.

The next witness is Powel; and he gives you an account that he came with him to town: He gives you an account how he staid with him, and came along with him till 9 o'clock at night; for he does not pretend to give you an account after nine.

Then comes Crook: And Crook, that is the maid servant, she says, I cannot positively tell you when he came in, but will positively say, that I made his bed about 10, and before 11 I asked him about his candle; he bid me lock the door, and he would put out the candle himself, and she went away and left the candle. And that is very material; for the time this fact was committed was between 10 and 11; this is what the maid says: Now there is this answer to what she swears. She first of all forgot that ever Richmond, that speaks concerning the breeches and other circumstances, that

ever he was there at all; but you hear he has refreshed her memory with a love story, that he was in the room, and she does agree in these very circumstances he speaks of; so that that gives credit to the testimony of Richmond, and puts a disparagement upon her testimony, since she could be so exceeding forgetful, as not to remember such a circumstance.

The next is an old woman: And she swears point blank she was with him most part of the day; and that she was with him at dinner, and was with him till nine of the clock at night, and then went to bed. And though she seemed to differ and blunder in some part of her testimony, because she knew nothing of his going into Long-Lane, and other places; however, she gives an account about the time of nine o'clock, that she left him in the kitchen, and then she went to bed.

The next witness is James: And James doth positively swear, that he was drinking with him in the kitchen till past twelve o'clock at night: but that cannot be true, if the wench that made the bed swear true; for she swears she made the bed before ten, and he went to bed before eleven; so that he could not be abed before eleven, if he swears true; and he could not be in the kitchen at twelve o'clock, if she swears true.

Gentlemen, Richmond's man he gives you no farther an account than what runs square to his master's testimony; that he left him at nine o'clock at night, and he heard him call at his master's chamber about twelve, and so they punctually agree. But he gives no manner of account where he was between nine and twelve, between which hours this fact was done.

Next, gentlemen, there have been some more witnesses called for the prisoner at the bar, who gave you an account where he was before such time as he came to his lodging. Now it is not denied on either side, but that he might be till within night at that house they speak of; but the account that is desired to be given of this matter, is to know where he was between nine o'clock and twelve, when this fact was committed.

These gentlemen, according as it occurs to me are the substantial parts of evidence, both on the one side and the other. The matter therefore resolves it within this narrow compass: If upon what you have heard from Mr. Arnold, attended with the rest of the circumstances that you have heard sworn by the witnesses, you do believe the prisoner at the bar is guilty; for he might be at his lodging at nine o'clock, and he might be at his lodging at twelve or one, and he might do this fact. For it is certain it was not a sudden matter, for it was a thing done preparedly; and therefore you must not expect that men that are guilty of such barbarous designs as this, will lay their designs open. To be sure, whoever it was did this fact upon Mr. Arnold, they would do it so as to make themselves appear as innocent as could be. It is not a matter to be relied on, that because this man was innocent in St. Martin's-

lane, therefore he did not do this thing in Bell-yard.

There is another circumstance against the prisoner at the bar; that he should imagine, notwithstanding all this, that Mr. Arnold had wounded himself. But when he found that that was not very probable, that a man could wound himself so, by reason of several places that he received his wounds in; he would have it, that though he did not do it himself, yet some of his friends might. Indeed if he be guilty, some of his relations might do it, but certainly he was no friend that did it. It is against nature for any man to believe that any person should put himself to so much trouble; if he had a mind to dispatch himself, he might have done it with much more ease, and not have put himself to that trouble; for men, when they have a mind to do the business, they do not use to take such a deal of pains to stab themselves here and there.

Thus, gentlemen, the evidence being very long, and the circumstances very many, things may occur to you that do not at present to me. Yet I must tell you again, in a matter of public example, the proof ought to be very great, to convict a man of such an offence; but you must not expect it should be so clear, as in a matter of right between man and man, and of things that are done in the face of the sun. It was done in the dark: The devil that set them a-work, does fill them with cunning enough to keep this attempt as concealed as may be: And therefore circumstances of this nature must be wonderfully considered; an account of which Mr. Arnold himself gives you, and he does believe in his conscience the prisoner at the bar to be the man.

The Jury withdrew, and having debated together about half an hour, returned, and brought the prisoner in Guilty.

Which done the court adjourned till the Saturday following, the 17th of July.

At which time the court being sat, John Giles was brought to the bar; to whom the right worshipful sir George Jeffries delivered himself to this effect.

Recorder. You the prisoner at the bar, you have been indicted for a very vile offence; an offence in its nature that deserves a greater punishment than the law can inflict upon any such offences. There is a jury has convicted you of this crime, against whom, had you had any objection, you might have made your challenge. And now you stand convicted here, it is only the duty of the court to pronounce that judgment against you, which they think may be reasonable to inflict upon such an offender. For I must needs say, it was one of the basest and most barbarous actions that mankind could possibly be guilty of; an action of so much filth and baseness, that the law could not foresee any man could be guilty of, and therefore hath not made provision for a punishment proportionable to it. But inasmuch as we understand by Mr. Arnold you have a charge of children,

therefore the court takes some consideration: Not that they think to extend any mercy to you for your own sake, but a regard they think they are bound to have for those that have not offended. But we ought to have care to let the world know, we do not intend only a punishment to the offender, but by that to terrify all other people from being guilty of such extraordinary villainies. And because they will have regard to your posterity, therefore they do not think fit to put so great a fine upon you as this fact does deserve. But on the other side, they have thought fit you should be made an example of and that you should suffer as great a corporal punishment as the law will allow. And therefore in the name of the court I do pronounce this to be your sentence: 'That you be put in the pillory towards Lincoln's-Inn-fields, as near the place where this barbarous fact was committed as may be: And there you are to stand from the hour of twelve till one, one day, at noon day. And on another day, from the hour of twelve to one, over-against Grays-Inn in Holborn. And another day, between the same hours just by the May-pole in the Strand. These three several days you are to stand in the pillory, and to have a paper put upon your hat whereby it shall be signified the offence of which you stand convicted. And next, to deter all others from committing the like, the court does think fit likewise to award, that you should pay to the king the sum of 500*l*. and that you be committed in execution, till such time as you pay that money. And because it is both to be a punishment to you, and a terror to all other such villains, you are to find sureties for your good behaviour during life.'

Sentence being pronounced, and the prisoner removed from the bar, Richard Cavanaugh was brought to the bar, and prayed to be discharged; But was by Mr. Arnold charged with threatening one Philip Staneright, one of the king's witnesses: For which reason, and for that also a new evidence was come in against the said Cavanaugh, with some farther charge relating to Mr. Arnold's business, the court thought fit, for want of bail, to continue him a prisoner.

Then Mr. Herbert appeared, and prayed to be discharged from his recognizance to appear at the Old-Bailey: But being accused by a woman for calling her Whore, Jade, and very ill names, and holding up his staff at her, and threatening to beat her for being a witness against his friend Giles; as also for taking away her horse as she was going to the mill; and the reason was, because she was to be a witness in London against Giles. But she being a married woman and none appearing that would be bound to prosecute him for it, he was not bound over to answer it, till another complaint came in against him, which was immediately made by Mr. Ballard, and another gentleman; who charged Mr. Herbert, that in Whitsun week last upon a discourse for chusing knights

of the shire for Monmouth, and the saying of one in the company, that it was thought Mr. Arnold would stand for it; Mr. Herbert should make answer, I will circumcise the other side of his cheek first; or, he must have the other side of his cheek circumcised first. Upon which the court ordered he should not be discharged, but remain bound upon the former recognizance to appear there next sessions. And the Recorder gave him several sharp reprehensions for his malicious and unmanly words and proceedings: this being the second of the king's witnesses; and a woman that he had barbarously treated; still passionately giving the reason that they were witnesses against his friend John Giles, as it was proved on oath before the court by several witnesses.

Then sir Thomas Allen acquainted the court that a gentleman had informed him the day before, that Mr. Herbert told him, that Mr. Arnold wounded himself and cut his own throat; which the court looked upon as an high effect of a malicious ingratitude; Mr. Arnold hav-

ing besought his majesty, when Mr. Herbert was in Newgate to have his release. Mr. Arnold replied, that Mr. Herbert had been more ungrateful to his majesty, who had graciously pardoned him greater offences, and lately; for he had spoken worse of his majesty's person and government, than he had done of him, as it had been proved before his majesty, and of which he believed his majesty was well satisfied. The Court told Mr. Herbert, he was a shame to all Englishmen; and bound him by recognizance to appear and answer this offence at the King's Bench bar the first day of the next term.*

* 'In obedience to an Order shewed to me, made by the right honourable the Lords spiritual and temporal in parliament assembled, I have perused these papers; and according to the best of my remembrance, upon this distance of time, they do contain the substance of what passed at the Trial of Giles.

'GEO. JEFFREYS.'

269. The Trial of THOMAS THWING and MARY PRESSICKS, at York Assizes, for High Treason: 32 CHARLES II. A.D. 1680.

Clerk of Assize. THOMAS Thwing, late of Heworth, in the county of York, clerk, and Mary Pressicks, wife of Thomas Pressicks, late of the parish of Barwick in Elmet, gent. stand indicted; for that they, as false traitors against the most illustrious and most excellent prince, king Charles the second, that now is, their natural lord; God before their eyes not having, nor their due allegiance weighing, but by the instigation of the devil being seduced and moved, the cordial love, and true and natural obedience, which true and faithful subjects of our said sovereign lord the king towards his said majesty ought to bear, altogether withdrawing; and imagining, and with all their strengths, intending the peace and common tranquillity of this kingdom of England to disturb, and his said majesty that now is to death and final destruction to bring and put, and the true worship of God in this kingdom of England established and used, to alter to the superstition of the church of Rome, and war against his said majesty in this kingdom of England to move and raise, and the government of this kingdom of England to subvert; the 30th day of May, in the 31st year of his majesty's reign that now is, at the parish of Barwick in Elmet aforesaid, in the county aforesaid, with divers other false traitors to the jurors unknown, did traiterously compass, imagine and intend, and every of them did compass, imagine and intend the death and final destruction of his said majesty, and the ancient government of this realm of England to change,

alter, and utterly subvert, and his said majesty of the crown and rule of this kingdom to depose and wholly to deprive, and the true Protestant religion to extirpate: And to effect and accomplish their said wicked treasons, and traiterous imaginations and purposes aforesaid, the said Thomas Thwing and Mary Pressicks, and other false traitors to the jurors unknown, the said 30th day of May, in the 31st year aforesaid, with force and arms at the parish of Barwick in Elmet aforesaid, advisedly, devilishly, maliciously, and traiterously did assemble and gather themselves together, and then and there did devilishly, advisedly, maliciously, subtilly, and traiterously consult and agree, and every of them did then and there traiterously consult and agree to bring to death and final destruction our said sovereign lord the king, and to depose and deprive him of his crown and rule aforesaid, and the religion of the church of Rome into this kingdom to introduce and establish: and the sooner to fulfill and effect the said wicked treasons and traiterous imaginations and purposes aforesaid, the said Thomas Thwing and Mary Pressicks, and other false traitors to the jurors unknown, did then and there pay and expend, and every of them did then and there pay and expend divers sums of money of divers other traitors to the jurors unknown, to carry on the treasons aforesaid; and then and there the said Thomas Thwing and Mary Pressicks did subscribe, and either of them did subscribe a certain note in writing for the payment of divers sums of money for making a contribution for completing their traiterous purposes aforesaid, against the duty of their allegiance,

* See the Trial of sir Thomas Gascoigne, ante, p. 959,

and against the king's peace, his crown and dignity, and also against the statute in that case made and provided.

To this indictment having pleaded Not Guilty, and put themselves upon their country for trial,

Upon the 29th of July, sir Thomas Daniel, high sheriff of the county, having returned many gentlemen for jurors; the Trial proceeded thus: After the Jury called, Thomas Thwing and Mary Pressicks being brought to the bar,

Clerk of Assize. Thomas Thwing, hold up thy hand. Mary Pressicks, hold up thy hand. Which being done,

Cl. of Assize. This understand ye, that these gentlemen that are now to be sworn, are returned by the sheriff of this county, to pass between our sovereign lord the king and you for your lives: therefore if you will challenge any of them, you are to challenge them as they come to be sworn, and before they be sworn.

Cl. of Assize. Sir David Fowles, bart.

Thwing. I challenge him.

And so as they were called challenged these 25 gentlemen following, viz. John Eastoft, William Bethell, Townes Drifeild, Will. Osbaldeston, esquires; Marm. Trueman, Robert Bell, Thomas Fletcher, Thomas Wood, Thomas Faieside, Roger Fretwell, Simon Warrener, Edward Carvil, John Coates, Hugh Savil, Nivian Collins, Thomas Green, Nath. Elliotson, Nathan. Harrison, John Tomlinson, Thomas Riccaby, John Ullithorne, Thomas Hincks, William Mastin, George Ellis, Thomas Whaley, Gentlemen.

In the calling of the Jury, after several challenges made and some of the Jury sworn, Thwing spoke thus:

Thwing. My lord, I shall willingly stand to the other jury.

Just. Dolben. What jury?

Thwing. My lady Tempest's jury.*

Just. Dolben. Oh, your servant; you either are very foolish, or take me to be so.

The Jury being sworn.

Cl. of Assize. Cryer, count these. Sir George Cook, bart. Tho. Worsley, Wm. Caley, Roger Lee, John Dixon, George Wray, Hen. Pinckney, John Blackstone, Will. Hardcastle, Nicholas Stone, Geo. Westorby, Charles Tucker, Gentlemen.

Cryer. Twelve good men and true, stand together and hear your evidence.

Cl. of Assize. Thomas Thwing, hold up thy hand, (which he did) Mary Pressicks, hold up thy hand, (which she did). Gentlemen, you of the jury that are sworn, look upon the prisoners, and hearken to their charge: You shall understand that they stand indicted by the

* This lady Tempest was probably the daughter of sir Thomas Gascoigne. See his Case, ante, p. 959. No report of her Trial has been found.

names of Thomas Thwing, &c. and Mary Pressicks, &c. Prout in the indictment. Upon this indictment they have been arraigned, and thereunto pleaded Not Guilty; and for their trial have put themselves upon the country, which country you are, &c.

Then Proclamation was made for evidence, and the indictment being opened, and the treasons therein aggravated by the king's council; Mr. Baron Atkyns came into the court to assist in the Trial.

The Witnesses were called; Robert Bolron was first sworn.

Bolron. My lord, in 1674, I came to live with sir Thomas Gascoigne, and was steward of his coal pits; and in 1675 I turned papist; and about January, 1676, Mr. Thwing, Father Rushton, and several others came to my house at Shippon, and did there examine me how I stood affected to the Roman Catholic religion, and whether I was resolved to venture my life and estate in it, if there were any occasion; to which I agreed, and was resolved to obey my ghostly father in all things.

Mr. Justice Dolben taking notice of a gentleman near the prisoners, demanded, What is that gentleman? We are all beset; he was one of the jury yesterday.—He being removed, Bolron proceeded.

Bolron. Father Rushton my confessor gave me the Oath of Secrecy;* and in 1677, sir T. Gascoigne, sir Miles Stapleton, Mr. Thwing the prisoner, and several other persons, met at Barnbow-hall, sir T. Gascoigne's house; and there they agreed, That in hopes the plot of killing the king would take effect, they would erect a nunnery at Dolebank; but the real intention was to have it at Heworth, within a mile of York, after the king was killed; and to avoid suspicion, my lady Tempest told them she would let them have Broughton for the present. It was there agreed, that the king should be killed:† And Mr. Thwing said, that if they missed this opportunity, they should never have the like again, and the effecting of it would be very beneficial to the church of Rome.

Mr. Baron Atkyns. Repeat it in the same words.

Bolron. He said, if we miss this opportunity of killing the king, we shall never have the like again; and Mr. Thwing was to be the confessor of the nunnery for the present.

Baron Atkyns. Where were these words spoken?

Bolron. In the old dining-room.

Justice Dolben. Who were present?

Bolron. Sir Miles Stapleton, sir T. Gascoigne,

* See the Trial of sir Thomas Gascoigne, ante, p. 969.

† Note, That upon sir T. Gascoigne's Trial it appeared in his Almanack, that he had made this Memorial there with his own hand (viz.) "The 15th of April 1676, memorand. acquaint Mr. T. Thwing with the whole design."

my lady Tempest, Mr. Thwing, Mr. Rushton, and some others.

Justice *Dolben*. Was it agreed that the king should be killed?

Bolron. It was, my lord.

Baron *Atkyns*. Consider seriously, you speak in the presence of God, and of a great assembly; and that a person's life is at stake: Tell it again, what were the words.

Bolron. It was agreed that the king should be killed, and that it was for the good of the catholic religion; and I paid 10*l.* to Mr. Rushton in Mr. Thwing's presence, towards killing the king, and saw a list in Mr. Rushton's and Mr. Thwing's hands, of the names of several that engaged for promoting the Roman Catholic religion; which was to be by killing the king.

Baron *Atkyns*. Was it a List of those that were to kill the king?

Bolron. The List I saw was of money raised to kill the king.

Baron *Atkyns*. What was the title of that List?

Bolron. A List of the Names of the Actors and Contributors, engaged in the design of promoting the Roman Catholic religion, and also of establishing a Nunnery; which was raising money for the killing of the king. And besides the 10*l.* I paid towards it, I paid 5*l.* to have my soul prayed for. Thwing told me afterwards at my house, that in Yorkshire, Lancashire, and Derbyshire, 30,000*l.* was raised for the killing of the king; and that the List was sent beyond sea.

Justice *Dolben*. What can you say against the woman?

Bolron. Mrs. Pressicks told me, That in 1678, presently after the plot was discovered, she being in London; did hear a woman cry after her, Stop the Papist, Stop the Plotter; but she got away, and afterwards durst not appear publicly in London. I had discourse with her at my house about the Plot; and she told me, That Father Harcourt was her confessor, and first engaged her in it; and that Pickering told her, that he was to have killed the king, and she said she was sorry she did not do it; and that Oates and Bedlow were two rogues, and the Plot had not been discovered but for them, who were the cause of so much mischief. And she further told me, that the gun where-with he was to have killed the king, was found with Pickering, and she did believe that was the cause of his losing his life: And she said, The king was an ass and not fit to govern; that what money the parliament gave him he spent upon whores and concubines.

Justice *Dolben*. Well, is this all you have against her?

Bolron. Yes, my lord.

Justice *Dolben*. He hath done; you may cross-examine him, if you will.

Thwing. Who was at your house when I was there?

Bolron. Father Rushton.

Thwing. How often was I there?

Bolron. Several times, I know not how often.

Thwing. When was it you accused me first of the plot?

Bolron. When I went to the council I accused him.

Thwing. He did not accuse me of the plot in several months.

Sir *Tho. Stringer*. Come, Mr. Mowbray, tell your knowledge.

Mr. *Mowbray* was sworn.

Mr. *Mowbray*. My lord, what I have to say is only against Mr. Thwing. At an assembly of divers priests at Barnbow-hall, amongst the rest there were Father Rushton and Mr. Thwing; and there they determined to kill the king.

Baron *Atkyns*. When was this?

Mowbray. This was near Michaelmas 1676, and they declared it was not only lawful, but meritorious to do it: They also declared, That London and York were to be fired; and that force was to be made use of against the king, and all other heretics that should oppose the advancement of their religion: And Mr. Thwing and Rushton declared, the king was an heretic, and excommunicated by the Pope, and had not kept his promise with the Jesuits to bring in their religion, and therefore deserved to be killed, and it was not only lawful but meritorious so to do.

Mr. *Belwood*, of council for the king. Was there not a List?

Mowbray. Yes, a List of those engaged in the design of killing the king, and of promoting the catholic religion: And it was declared the king should be killed, because he had not kept his promise made to the Jesuits when he was beyond sea.

Justice *Dolben*. Did the prisoner declare it?

Mowbray. Mr. Thwing declared it, and Rushton and he managed it.

Thwing. Who was there?

Mowbray. It was at Father Rushton's chamber that I saw you, and there was another Thwing there, and also Addison a priest.

Thwing. I went once or twice a year to sir Thomas Gascoigne's, and thought it my duty to wait on him; and that I might without offence do it, he being my uncle.

Just. *Dolben*. No, the offence is Plotting.

Sir *T. Stringer*. Mr. Thwing, do you know Rushton?

Thwing. Yes; but I had no great acquaintance with him.

Sir *T. Stringer*. Mr. Mowbray, how came you to be intrusted in so great a business?

Mowbray. I assisted Father Rushton at the altar at mass; and so came into great favour with him, and was permitted to be in his chamber when the priests were in private with him.

Sir *T. Stringer*. Mr. Mowbray, did you take an oath of secrecy?

Mowbray. Yes, I took it from Father Rushton.

Thwing. How long since did you change your religion?

Mowbray. Presently after the Plot broke out.

Thwing. Who were you examined before first of all?

Mowbray. Before Mr. Lowther, and Mr. Tindal.

Just. Dolben. Did you at the first accuse him?

Mowbray. I only charged sir T. Gascoigne, esq. Gascoigne, my lady Tempest, sir Miles Stapleton, and Father Rushton in my first; and in my second deposition I accused Mr. Thwing, and that was before justice Warcup.

Bar. Atkyns. Did Thwing abscond at the first?

Mowbray. He was apprehended at the same time sir Thomas Gascoigne was apprehended, and at his house.

Just. Dolben. Well, what say you to Mary Pressicks?

Mowbray. My lord, I have nothing to say against her.

Just. Dolben. Mr. Thwing, you have heard the evidence, what do you say for yourself?

Thwing. I shall produce witnesses I was never with him at Barmbow: First, I shall shew he never mentioned me when he first mentioned the Plot; and he never said any thing against me, when he accused sir Thomas Gascoigne before Mr. Lowther and Mr. Tindal.

But Mr. Bonithen, of Counsel for the king, offering other witnesses for the king against Mrs. Pressicks, they were called, viz. Mrs. Bolron sen. Mrs. Bolron jun. and John Hutchinson.

Mrs. Bolron sen. sworn.

Just. Dolben. What do you know of Pressicks, the prisoner at the bar?

Mrs. Bolron sen. My lord, she said she knew of the Plot, and that Pickering was to have killed the king.

Mr. Bonithen. Do you mean shoot the king?

Mrs. Bolron sen. Yes, I do.

Just. Dolben. Where did she tell you this?

Mrs. Bolron sen. At Shippon, my lord.

Just. Dolben. At his house? [pointing to Mr. Bolron.]

Mrs. Bolron sen. Yes, and she said that she was very sorry that Pickering did not do it, and that he had done it if it had not been for Oates, and Bedloe.

Just. Dolben. Was this the very same time that Mr. Bolron speaks of?

Mrs. Bolron sen. Yes, my lord; and she said there would never be quiet in England until the Roman Catholics had got the upper hand, and there was not a protestant left in England: And she said, The king spent his money amongst his concubines, and his other women, so that he was not worthy to be king, and she hoped an army of catholics would be raised to set up popery.

Just. Dolben. That is, indeed, the principle of the papists, and according to it, within 40 years past they murdered 200,000 innocent protestants in Ireland. Did she say it often?

Mrs. Bolron sen. Yes, several times, more than once or twice.

Mrs. Bolron jun. was then sworn and examined.

Mrs. Bolron jun. I heard her say, There was a conspiracy carrying on about altering the government, and establishing the Roman Catholic religion.

Just. Dolben. Where heard you this?

Mrs. Bolron jun. In my husband's house.

Bar. Atkyns. And what were her hopes in the conspiracy?

Mrs. Bolron jun. My lord, I cannot tell.

Mrs. Pressicks. I ask Mr. Bolron when we had this discourse?

Mr. Bolron. At several times; about Candlemas 1678, and at Easter and Whitsuntide, and several times after the Plot was discovered, we discoursed it several times at the porch at my house.

Just. Dolben. Who was present?

Mr. Bolron. My grandmother.

Just. Dolben. Where was it, old woman, that you heard these words?

Mrs. Bolron sen. At Shippon, in the Hall-porch, my lord.

Mrs. Pressicks. Had we any discourse about sir Thomas?

Mrs. Bolron sen. None.

John Hutchinson was then sworn.

Just. Dolben. Do you know any thing concerning Mrs. Pressicks?

Hutchinson. May it please you, my lord, I came to Mr. Bolron's house, and Mrs. Pressicks asked me what news in our country, and what became of the papists? I told her some had given bond, and some were gone to prison: Then she said, We shall never be at peace until we are all of the Roman Catholic religion; for the king is an heretic, and spends more money upon his whores than upon his queen, and we shall never be at quiet until the duke of York is king.

Just. Dolben. What say you to this? You have seen him?

Mrs. Pressicks. I never saw him but twice there.

Just. Dolben. Where was she when she said this?

Hutchinson. She first talked with me in the kitchen, and at the hall door, as she was just going into the parlour: she told me, that we should never be at quiet until the duke of York was made king.

Just. Dolben. Mr. Bolron, when came she to your house?

Bolron. She came to our house about Christmas, and staid about six months there.

Just. Dolben. Six months in your house! Then you are well enough acquainted with her?

Bolron. Yes, my lord.

Just. Dolben. Did you charge Mr. Thwing before the justice?

Bolron. My lord, I gave justice Tindal only a short note, that sir T. Gascoigne promised me 1,000*l.* to kill the king: But what I had to

say against Thwing, I gave to the king and council.

Thwing. My lord, this is malice to sir T. Gascoigne's family, to which I am related, it is out of revenge.

Just. Dolben. It was a family-quarrel then?

Thwing. Yes, my lord, this I can prove by several witnesses.

Just. Dolben. Call your witnesses then.

Thwing. Nathaniel Wilson.

Just. Dolben. Mr. Babington, why don't you appear? We know well enough that you are solicitor in the cause; call your witnesses.

Then *Nathaniel Wilson* was examined.

Just. Dolben. Come, what is it you have to say?

Wilson. I went to Bolron to look on a cow that he had gifted for his cousin Barges, and desired to have the cow away, but he would not let me have her without paying for her gift; so I tendered him his money, and we went to talk in the house, and Bolron sent for a groat's worth of ale, and asked me if I could tell any thing of father Rushton, and I told him I could not; and he bid me keep his secrets, and he would give me more than I could addle, (that is, earn) in seven years: And he said, unless he could shed the blood of some of them, he should get nothing.

Just. Dolben. When was this?

Wilson. This was about next Michaelmas a twelve-month.

Just. Dolben. This is quite other than you told yesterday.

[Wilson was a witness the day before for the lady Tempest.]

Wilson. I had not time.

Thwing. I desire to know, whether Bolron named me to Mr. Lowther as a plotter.

Then Mr. *Lowther* was called.

Mr. Lowther. I do not remember that Mr. Bolron named Mr. Thwing to me when he was before me.

Just. Dolben. When did he come to make the discovery to you? Give an account of it?

Lowther. I think it was the, 24th or 25th of June 1679, that he came to me; and he told me he had some secrets to impart to me: And he began to tell me a story of the Jesuits and priests, what they designed against the government, because the king did not keep his word with them when he was beyond sea: And then I called for my man and a bible to take his examination, and said Pray, friend, be very careful what you do, for here your own concern is at stake, as well as the lives and fortunes of the gentlemen you speak against; and upon that he began to be very fearful and timorous, and looked pale: Whereupon I asked him, what that fear was for? It is, said he, because I have concealed it so long; and if that were upon you, it may be you would be as fearful as I am. Then I was going to take his information, and he said, I have done it before to Mr. Tindal. Why came you to me, then? said I. He said,

VOL. VII.

Mr. Tindal desired it: Well, said I, Mr. Tindal and I are to meet to-morrow, and we will do it jointly.

Just. Dolben. Did he say he told you all he knew?

Lowther. He did not name Thwing, but said he would recollect more, and would go to London and give it in to the king and council: And then I said, why may not we take it here as well as trouble them at London?

Just. Dolben. It may be, he thought it better to do it there.

Mrs. Pressicks. He did not accuse me before Mr. Lowther.

Bolron. Yes, my lord, I did, and had a warrant to take her.

Lowther. She was taken the same day sir T. Gascoigne was taken.

Just. Dolben. We will be just between you.

Then the prisoners called *Obadiah Moor*:

Just. Dolben. Come, tell your knowledge in this business.

Moor. I say, that Mr. Bolron said, that sir T. Gascoigne was not concerned in the Plot, nor none of his family; and that he believed there was no Plot.

Just. Dolben. When was this?

Moor. This was about Candlemas was twelve months.

Just. Dolben. He was then a papist: But did he not tell you otherwise afterwards?

Moor. In August after he told me he had but equivocated with me in what he said before, and that there was a real Plot; and if he had sworn a thousand lies, he could have been forgiven them.

Then *Stephen Thompson* was called and examined.

Thompson. Mr. Bolron was servant to sir T. Gascoigne, and being in his debt, sir Thomas did arrest him, and he agreed with sir Thomas to give him 60*l.* and got me to be bound with him: And when the Plot came out, I thought Bolron being his servant, might know whether sir Thomas had any hand in it; and if so, that we were in no danger of being sued; and I enquired of Bolron, and he said, 'Sir Thomas was as sinless of it as the child that was unborn.' And on Holy Thursday I went to him, and got him out on the backside to sir Thomas's, and all along he told me, if he sued him he would do him a greater mischief: And I pleaded earnestly with sir Thomas not to sue the bond, and he said he would have his money, but would stay a fortnight; and I prevailed with him to give three weeks time, that Bolron might go to sell his house at Newcastle, and in that time he went to London and accused him of treason: And as to Mrs. Pressicks, I asked his grandmother what she could say against her, and she said, Alas, alas, I can say nothing to it, but Bolron said she must say so and so.

Just. Dolben. What mean you, friend, by so and so.

Thompson. It was about sir Edmundbury

4 F

Godfrey, and that the king was an whoremaster, and such things.

Then *Zachary Thorpe* was called and examined.

Thorpe. I met with Mr. Bolron in Long-acre before the last assizes, and asked him concerning sir T. Gascoigne my countryman, and he said he was cleared, but, God damn the jury they were rogues. Then he asked me if I had read Harris's Intelligence of that day, and I told him Yes; and he then asked me if I had seen his wife's name in it? He then told me, that he was going down to the assizes at York against my lady Terapest, and said, God damn me, I will ruin them; if one thing will not do it, another shall.

Just. Dolben. What are you? God damn me comes very nimbly out of your mouth.

Thorpe. I live at the White-hart in Charter-house-lane, with the gentleman of the house; I married his daughter.

Just. Dolben. And draw pots of ale, that is your trade? How comes Bolron to talk thus to you? Is he so mad a fellow to talk thus to every one? This is not likely that he should thus accuse himself to you: Your father in law is a poor ale-housekeeper?

Bar. Atkyns. Are not you a papist?

Thorpe. No my lord, a Protestant of the church of England.

Just. Dolben. Have you never been in Newgate? Your lane is full of such people, and your house suspected.

Thorpe. No, my lord.

Just. Dolben. Come, have you done?

Thorpe. Bolron came to my lodgings at the Plough on Holborn-hill before the last assizes, and told me, if I would swear that Peter Shipton knew no harm by Bolron, he would do any thing for me.

Just. Dolben. This is a fable, for Bolron bound Shipton over at the sessions before the last assizes.

Bolron. Yes, my lord, it was for scandalous words against his majesty.

Thorpe. He asked me what Shipton was. I answered, he is an honest man for aught that I know: I have taken his own bond, said Bolron, but I will have him from court to court, I will teach him to meddle with me.

Just. Dolben. How came he to speak to thee?

Thorpe. I know not why, but it was his discourse to me.

Bar. Atkyns. What acquaintance was there between you?

Thorpe. I have seen him several times in Yorkshire.

Just. Dolben. You live in Charterhouse-lane; How came you together in Long-acre?

Thorpe. I met him accidentally in the street.

Just. Dolben. It is a wonderful thing, that he should meet one in the street with whom he had very small acquaintance, and discover such things to him, as he did to you.

Then *William Hardwick* was examined.

Hardwick. I was to carry Mrs. Presticks be-

fore Justice Lowther, and Bolron's wife said she was sorry for it, for she believed her to be an honest woman, and had been a good neighbour amongst them.

Baron Atkyns. Who was sorry?

Hardwick. Mrs. Bolron.

Baron Atkyns. What did Bolron himself say?

Hardwick. He said nothing to me, he was in another room with his grandmother.

[Justice Dolben taking notice of Thwing's speaking to Mr. Hobart, demanded what he said.]

Hobart. My lord, he asked me, whether Bolron did not say that sir T. Gascoigne offered him 1,000*l*. I only say that he swore at sir T. Gascoigne's trial.

Justice Dolben. How doth it appear what he swore there?

Bolron. I acquainted Mr. Lowther and Mr. Tindal with it.

Mary Walker was called.

Justice Dolben. Mary Walker, what do you say?

Walker. Robert Bolron came after Mr. Thwing was taken prisoner, to my mistress's.

Justice Dolben. Who is your mistress?

Walker. Mrs. Lassell; and he asked me if I knew Mr. Thwing to be a priest, and I told him, No, my lord; he told me that if I would swear that he was a priest, he would give me 10*l*. for he would be revenged of him for sir T. Gascoigne's cause; for he was near of kin to him, and he proffered me 10*l*. again.

Bolron. Where were you, you were not here yesterday?

Walker. I was in the Court yesterday.

Justice Dolben. Where spoke he this?

Walker. At Mrs. Lassell's.

Sir T. Stringer. My lord, he was then searching for priests at that house, and it is improbable that he should endeavour at that time to suborn Thwing's sister's servant.

Baron Atkyns. Is Mrs. Lassell of kin to Mr. Thwing?

Walker. Yes, my lord.

Justice Dolben. Who can believe he would come to Thwing's sister's house, to suborn her servant to be a witness against Mr. Thwing?

Walker. Yes, my lord, I have witness of it, both a man and a woman.

Justice Dolben. Where are they?

Walker. In town.

Justice Dolben. That makes it more improbable that he would offer you 10*l*. in the presence of two witnesses to swear that Mr. Thwing was a priest.

Sir T. Stringer. Let us ask her a question: Whether are you a Papist or no?

Walker. Yes, I am a Catholic.

Sir T. Stringer. Since it must be probable, that he would ask you such a thing, and knew you to be a Papist; is Thwing a priest or no?

Walker. No, marry, is he not.

Sir T. Stringer. Have you not heard him say mass?

Walker. No, if I were to die.

Justice Dolben. Indeed you are an excellent witness.

Mr. Legget, one of the King's Messengers, produced as a Witness by the Prisoners, was next examined.

Legget. In August last, Mr. Bolron told me, he would call his grandmother in, and examine her before me; and he then asked her, if she did not say, that she knew such and such things? And she said she could not tell, but if she did, it was true.

Baron Atkyns. What was it he asked her?

Legget. About Harcourt, and I know not what; I took little notice of it, it seemed to be a thing so idle, that I went away: And meeting me afterwards, said, You thought my grandmother knew nothing, but at the bar, when sir T. Gascoigne was tried, they said they never heard one swear a thing more plainly.

Justice Dolben. Legget, did not you desire money yesterday of the clerk of the assizes as a witness for the king?

Legget. Yes, my lord.

Justice Dolben. Did you so? You are a fine fellow.

Then one *William Bacchus* was examined.

Bacchus. All that I can say, is, That I served a warrant upon Mrs. Bolron to go before squire Lowther, and Bolron's wife and grandmother said, they could say nothing against sir T. Gascoigne, nor any of the family.

Justice Dolben. Well, they say nothing against them now, but what did she say against Mrs. Pressicks?

Bacchus. She said that Mary Pressicks should say that the king was an whoremaster, and maintained his whores better than he did the queen.

Cuthbert Hamsworth was then called.

Hamsworth being produced as a witness for sir T. Gascoigne, owned that he had been a Papist.

Hamsworth. My lord, Robert Bolron did swear revenge against my lady Tempest, for prosecuting a suit against him.

Justice Dolben. What is that to the matter in hand? Do you know that he swore revenge against Thwing and Pressicks?

Hamsworth. No, my lord.

Baron Atkyns (to the prisoners.) What have you more to say?

Thwing. My lord, he saith, I was at Barmbow Hall, 1677, I have witnesses to prove otherwise.

Baron Atkins. Call them then.

George Twisley, Groom to Sir Thomas Gascoigne.

Twisley. Mr. Thwing was never at our house above a night or two in the year.

Justice Dolben. Whose house is yours?

Twisley. Sir T. Gascoigne's.

Justice Dolben. He was there but a night or two at a time?

Twisley. No, and please your lordship.

Justice Dolben. But was he there in 1677?

Twisley. About a year or two since, I saw him there.

Justice Dolben. But how often in a twelve-month's time?

Twisley. Not above once or twice.

Baron Atkyns. Did you never go out of your master's house in 1677?

Twisley. I have, my lord, but I was there both night and morning.

Baron Atkyns. How do you know but he might be there in the time that you were not there?

Bolron. And please your lordship, this man was but the groom.

Twisley. I was the groom, my lord, and took the horses.

Justice Dolben. But were you never absent?

Twisley. No, my lord, and he was not there above once or twice in the year.

Thwing. Ask him what company was then there?

Twisley. No company at all, my lord, when he was there.

Justice Dolben. Was not he there about Easter?

Twisley. No, not that I know of.

Justice Dolben. What time of the year was he there?

Twisley. About Michaelmas, not Easter.

Bar. Atkyns. How came you to take such particular notice at what time men come? Did you take an account of all the gentlemen that came to sir Thomas's house, how often there, and when they came?

Twisley. There were none that stayed any time when they came thither.

Bar. Atkyns. What time of the year was he there?

Twisley. It was a month before Michaelmas.

Just. Dolben. You bring witnesses to stretch things even to impossibilities.

Bolron. He was drunk, my lord, at Leeds the same night the consult was.

Sir Thomas Stringer. Will you speak truth before Almighty God?

Twisley. Yes.

Sir Thomas Stringer. Pray, then, are you a papist?

Twisley. No.

Sir Thomas Stringer. Were you never a papist?

Twisley. Yes.

Sir T. Stringer. Have you heard mass at sir Thomas Gascoigne's when you were a papist?

Twisley. No.

Sir T. Stringer. That is very strange, that you lived there and never heard mass, and yet were a papist.

Twisley. Yes, I heard mass in his house, but not by this man.

Sir T. Stringer. How long have you been turned protestant?

Twisley. About two years.

Thwing. Thomas Areton. Did you ever see me at Barmbow-Hall?

Arlton. I have nothing for nor against him, I never saw him before in my life.

Thwing. Mr. Mowbray hath declared he never knew any thing of the plot.

Just. Dolben. To whom did he declare it?

Thwing. There is witness of it, my lord.

Just. Dolben. Call them.

Thwing. He accused not me of the plot.

Just. Dolben. He was no protestant then.

Thwing. I never knew any thing of the plot until I came from London.

Just. Dolben. Well, if you have any more witnesses, call them.

Thwing. Mr. Cooper.

Joseph Cooper. I have nothing to say in this business about this gentleman, it is concerning sir T. Gascoigne.

Thwing. Yes, he declared before these witnesses he knew nothing of the plot.

Cooper. We were coming from Atherton fair, and my father began to discourse with Mr. Mowbray, and asked him if he knew any thing of the plot that sir Thomas was called to London for; he said, he knew nothing of the plot, and he thought sir Thomas was guilty of no such thing; for, if he had, he should have known it as soon as Bolron, and he was a rogue and a knave for saying any such thing.

Just. Dolben. When was this?

Cooper. It was about this time twelvemonth.

Just. Dolben. Were you upon the road then?

Cooper. Yes.

Sir T. Stringer. Had Mowbray then made any discovery of the plot?

Cooper. Yes, that was the reason we asked him about it.

Just. Dolben. Yesterday (upon lady Tempest's trial) you said, that Mowbray had not then made any discovery.

Cooper. Yes, my lord, I mean Bolron.

Just. Dolben. Really, methinks, you that are priests should be more dextrous; my lady Tempest managed her business much better, and had her witnesses in more readiness.

Thwing. My lord, I call upon the witnesses and they will not come in, I cannot help it.

Edward Cooper, senior, was then called.

Edward Cooper. I know nothing; I met Mr. Mowbray coming from Atherton fair, and he said, he thought sir Thomas was not guilty of the plot.

Thwing. Mr. Mowbray declared for eight or ten months together in 1677, he knew nothing of the plot. Call Mr. Hobart.

Hobart. I know nothing of it.

Thwing. I am innocent, I know nothing, as I hope for salvation.

Then *Isabel Heyward*, a girl that lived with Bolron as a servant, was called.

Isabel Heyward. My master and mistress fell out about going to London, and she said, she would not go, and he said he would make her go; and she said, if he did, she would swear that what he had sworn against Mrs. Pressicks was out of malice.

Alice Dawson was next examined.

Alice Dawson. The day after New Year's-day wastwelve-months, Mrs. Bolron said, she was sorry for nothing but that her husband had meddled with Mrs. Pressicks.

Then Mrs. Pressicks called for *John Pepper*.

Just. Dolben. What do you say to him, mistress?

Pressicks. I ask about my going to Parlington at Whitsuntide.

Just. Dolben. No, it was at Candlemas, and they said it was cold weather to sit in the hall-porch.

Pressicks. It was also said at Whitsuntide.

John Pepper. About Whitsun Monday, my lord, I went to Barmbow, and met there with Mr. Pressicks and Mrs. Pressicks; and he desired me to tarry and carry his wife to Mrs. Harrison's, at Parlington, and she and I went down to Shipton, and carried her from Bolron's on Whitsun-Monday, and staid till Thursday.

Just. Dolben. And what is all this to the purpose? She was, however, as it was sworn against her, at Shipton at Whitsuntide.

Pepper. This is all I can say, my lord.

Zachary Thorpe was again called by Thwing.

Thorpe. Bolron said, he was going to swear against my lady Tempest, and if one thing would not do, another should, and would have had me to give evidence against Shipton.

Mrs. Baynes (mother to Mr. Bolron) called.

Bar. Atkyns. What do you say, Mrs. Baynes?

Mrs. Baynes. Indeed, my lord, I know nothing of this, I know not Thorpe, Shipton I know, and he told me; that if he had not fallen into my lord of Shrewsbury's service, he and Thorpe would have turned highwaymen.

Mr. Babbington called by Pressicks.

Just. Dolben. Can you say any thing for Mr. Pressicks?

Babbington. I can say nothing, but what I said yesterday concerning sir T. Gascoigne.

Just. Dolben. Can you say any thing for Pressicks?

Babbington. No, my lord, I can say nothing for Mrs. Pressicks; yes, thus much I must say, that when I came to have the writings sealed by Bolron, his wife refused to seal them without delivering up of the bonds. I told her, it would be an additional security to sir T. Gascoigne; he said he did believe, that Mr. Pressicks and his wife were his enemies, and that they did instigate sir Thomas to sue him.

Just. Dolben (to Thwing). Come, what have you more to say?

Thwing. I have no witnesses to call, but I hope it will be considered what kind of witnesses these are, what lives they have led; they bring me in amongst the rest, we are all of a family; I hope, my lord, you will consider that those ill men that will, may take away an honest man's life unjustly.

Just. *Dolben*. I hear nobody speak against their lives; and this I must tell you, till men be convicted of some crime that may disable them, you cannot take away their testimony.

Thwing. My lord, witnesses should be men of credit and reputation.

Just. *Dolben*. The jury is to consider of that.

Look you, gentlemen, these two prisoners stand indicted of high-treason, and it is for conspiring the death of the king, and other heinous crimes; as designing the subverting the government, and bringing in the popish religion.

Now, the witnesses that have been produced against Mr. Thwing, are Bolron and Mowbray; and against Pressicks, Mr. Bolron, Mrs. Bolron sen. and jun. and one Hutchinson; and the evidence against Thwing is one thing, and against the woman quite another; there is no evidence against her but what they heard her say others were to do; there is no evidence of any action of hers, or that she was present at any consultation, nor acting any thing there, but that she said so and so. Now Mr. Bolron and his grandmother do both say, that she said Pickering was to have killed the king, and that she was sorry that he did not do it. That the gun with which he should have done it was found, and she was afraid that was the cause of his death; and they all say she said, that it would never be well with England, till the Catholics had got the upper hand, and the duke of York were king. Now I must tell you, that my opinion is, that a bare saying of this doth not amount to high-treason, unless you do believe from these words, that she knew otherwise than by hearsay, that Pickering was to have killed the king, and that she was privy and consenting to the design of killing the king, then she is guilty of treason; but if she only knew it by hearsay, the bare knowledge and concealing of it will make her guilty of misprision of treason; but knowing of it barely by report doth not make her guilty of high-treason. My brother will tell you his opinion herein. Now for Mr. Thwing, the evidence against him is very home, for they both swear against him, one to one meeting, and the other to another, that he was present at their consultation to kill the king, subvert the government, and to bring in the popish religion; that he did agree at the meeting to the killing of the king, they do both swear, and this they say was at sir T. Gascoigne's, and that at the several meetings there was a list produced; but Bolron saith, that the list when he was present was a list of those that were engaged towards the carrying on of the nunnery; that which the other speaks of, was a list of those that were engaged about the killing the king, about the whole design which was to be effected by killing the king, this he swears, that Thwing did produce this list; and Mowbray saith, that three or four priests were present at that time, and that Thwing said the king was an heretic, and excommunicated by the pope, and that it was not only lawful but meritorious to kill him. So that admitting this evidence be true, it is a full evidence of high-

treason against him; here is an imagining the death of the king, and here is an overt-act, here is a setting hands to it; so that if this be true, Thwing is guilty of high-treason. Now against this they have produced many witnesses, and none of them doth go about to prove this impossible, but only improbable; but one that is a groom of sir T. Gascoigne's, who saith, he was but once or twice that year there, and not at Easter, but about Michaelmas: is that enough to answer the testimony of these two men, gentlemen? For a groom to take upon him to say two years after, who was at his master's house, and how often, and what time of the year, is to me a very strange thing; unless it were one that never used to come there: but this man, he saith, did use to come there—but that I must leave to you. The rest of the witnesses were the same that were examined yesterday. First, they insist concerning Mr. Lowther, they say, that when Mr. Bolron first went to Mr. Lowther, he said nothing of Mr. Thwing, but it appears, he said then, that afterwards he might remember more; then the man was under a great consternation, and told him the great and dangerous consequences of having so long concealed it, was the occasion of that disorder upon him; but he said he should remember more afterwards, and so he did: the rest of the witnesses do all go to this purpose, that either Bolron or Mowbray should tell them at one time or other, they did know nothing of the Plot, nor against sir T. Gascoigne; and some of them say, that it is out of malice to sir Thomas's family; for so Thwing would have it, he being his nephew, that the malice should reach to Mr. Thwing, that they would have it; and something to the same purpose they do offer against Mr. Mowbray. Now here is one Walker, that swears, that Bolron asked her if she knew Thwing to be a priest, and offered her 10*l.* to swear him a priest; she is a servant of one Mrs. Lassell, Mr. Thwing's sister, he came to Mrs. Lassell's, to search for priests; it is something strange, that he should offer to persuade her to swear against Thwing, who was a servant to his own sister, and at the time when he came to search for priests; the truth of it is, the thing doth depend purely upon the credit of witnesses. The king's witnesses are upon their oaths; but, on the other hand, the others are not on their oaths; but credit is to be given to what they say, if you consider their evidence, and do find a clearness in their testimony, which you must weigh; for certainly he that solemnly, in the presence of God, will say a false thing, will also dare to swear it; how far their principles will carry them I know not, I can see nothing but Bolron and Mowbray are good witnesses; I do not see but what they say is coherent, and that they speak the truth; and if you believe what they say to be true, then Thwing is guilty of high-treason: but if you do not believe what they say is true, but out of malice, you must acquit him. They do object the other juries did not believe Bolron and

Mowbray; the case with the prisoners at the bar is not the same with theirs; but you are to give your verdict according to the evidence that you have heard, and according to your consciences.

Mr. Baron *Atkyns*. Gentlemen of the jury, I shall be very short. The crimes that are laid in this indictment, and charged upon these persons, are, the designing to take away the king's life, subverting the government, and introducing popery; you observe the nature of the evidence which hath been given against the prisoners. And first, I shall speak but one word concerning Mary Pressicks: I do fully agree with what my brother hath said; you do take notice, that the evidence that hath been given against her, hath been what came out of her own mouth; the witnesses are Mr. Bolron and his grandmother, and likewise one Hutchinson: Mr. Bolron saith she did tell him, that Harcourt was her confessor, and that he had engaged her in the Plot; she likewise told him, that Pickering was to kill the king, that the gun was found with him, and was the cause of his death: this is some evidence of high-treason, I must leave it to you of what weight it is, and how far by this you will conclude her privy to the Plot; it is true, were she an actor in it, it is plain she is guilty of high-treason. As to what Hutchinson said, that she told him we should never be at peace till we were all of the Roman Catholic religion, and the duke of York was made king, that will not amount to high-treason: this I take to be the sum of the evidence against her. Then as to Mr. Thwing, there are two witnesses that have sworn against him, that is Mr. Bolron and Mr. Mowbray: Bolron tells you, that in 1677, there came to him several priests, to his house at Shipton; and amongst the rest Thwing the prisoner, who asked him, how he stood affected to the Roman Catholic religion? And he then expressed his zeal for it, and they thought him a person fit to impart their secrets to: then he saith, that in 1677, there was a meeting at Barmbow-hall, which is sir T. Gascoigne's house, and at that meeting there were sir T. Gascoigne, esq. Gascoigne, sir Miles Stapleton, and amongst the rest this prisoner Thwing; and that there was a consult held at that time, and design of killing the king; and that this person did agree to it, and declared that if they should miss that opportunity, they should never have such another; and that it was for the good of the Roman Catholic religion. The next was Mowbray; and he saith to the same effect: that in 1676, Thwing and others declared they did design to kill the king, for he was a heretic, and excommunicated, and had not kept his word with the jesuits, and therefore they thought it not only lawful, but a meritorious act: and this is what both Bolron and Mowbray do testify, this they swear positively against the prisoner; if you believe what they have sworn to be true, I must declare that it will amount to high-treason. You are likewise to consider the evidence he hath produced for himself: the law, it is true,

does not allow us to give them an oath; yet if they be persons of credit and honesty, it is evidence which you are to consider of. The prisoner hath called several witnesses: the first was Nat. Wilson; I shall not repeat what he saith, being of no import. Thwing saith, Mr. Bolron was before Mr. Lowther and Mr. Tindal, two justices of peace, who did take his oath; and then he said he did not accuse him of the Plot at that time, and by that would infer, that he would have said what he had against him, as well then as now, if he had any thing whereof to accuse him: but Bolron answers, he did declare to these two gentlemen, he was not able at that time to recollect his whole knowledge, but gave it in afterwards to the king and council. The next are Moor and Thorpe: the effect of their evidence is to strike at the reputation of Bolron, that it was an act of malice and revenge: for they say, that Bolron told them, that sir Thomas was innocent, and knew nothing of the Plot. Thorpe saith, he met with Bolron in Long-Acre, and that he told him, that though sir Thomas were quitted, he would ruin some of them. I say, these things, if true, are some evidence of a malicious prosecution: but it seems something improbable, that Bolron should so openly make a discovery of himself, when it appears he was not greatly acquainted with them, especially with Thorpe. There are several other witnesses that speak much to the same purpose. Gentlemen, in matters of fact, which depend upon the testimony of witnesses, the credit of the witnesses is greatly to be considered; if you believe what Bolron and Mowbray have both positively sworn, the treason is plain; you must take all the parts of your evidence together, you must weigh all the circumstances, you must, as I said before, consider the credit of the witnesses of the one side and of the other, and by these steps you will be the better guided in giving of your verdict. I must leave it to you, and I pray God direct you therein.

The Jury having withdrawn, after some consultation together, brought in their verdict, that Thomas Thwing was Guilty, and Mary Pressicks Not Guilty.

August the 2nd, 1680, Thomas Thwing being brought to the bar, the clerk spoke thus:

Clerk. Thomas Thwing, hold up thy hand: Thou hast been indicted, that thou as a false traitor did conspire the death of the king, &c. and thereof hast been found guilty: what canst thou say wherefore judgment of death should not be pronounced against thee?

Thwing. My lord, as I am now upon my life, I know nothing of these things, in the least, that these men have sworn against me: And on the other side, I say, that before sir T. Gascoigne had his trial, these men said nothing against me; so I hope your lordship will take it into consideration.

Justice *Dolben*. For your innocency, the gentlemen of the jury are judges of that, and

they have found you guilty, so that it is not in my power either to acquit or condemn you; I am only to pass sentence according to that conviction. If you have any thing to say wherefore judgment should not be pronounced, I am ready to hear you.

Thwing. All that I can say is to declare my innocency, and that these men are of no credit and reputation. It is very hard I only should be guilty, and none of the rest, who were arraigned for the same crimes.

Justice Dolben. No, it is not impossible; it is possible you may be guilty, and the rest innocent.

Thwing. For my part, I told your lordship that I was but once or twice in a year at sir T. Gascoigne's, being my uncle, and I do protest I know nothing of the consult these men do charge me with.

Justice Dolben. You say one thing, they swear another, and for aught I know they are honest men; they are lawful men, and not convicted in the main; for I do believe there were many great and dangerous consults held at sir T. Gascoigne's by several persons, and that there have been many horrid and treasonable things acted there. You have been indicted for high-treason, the highest treason that ever any subject was guilty of, for attempting to kill the king, for resolving so to do upon deliberate advice and consultation; and this for no other end or purpose, but that you might have your religion set up, for that was your design, to change this religion here, and to settle popery in England; and the better to bring that to pass, you thought to take away the king's life, knowing you could not otherwise accomplish it. You are, I am satisfied, a priest of the Romish church; therefore all that I can say to you in reference to your future state you will not value, for you account me an heretic as you do the king, and I am content to be so esteemed in so good company, therefore I shall wave it. As you are a gentleman, I will give some respect to you, and will not pass sentence on you among the rest of the prisoners that are found guilty of felony and murder, but will do it by yourself.

The law doth command the court, and the court doth award, "That you be carried from hence to the place from whence you came, that is, the prison, and from thence you are to be drawn to the place of execution: you are there to be hanged by the neck, you are to be cut down before you are dead, and your entrails are to be taken out of your body, and thrown into the fire before your face, and your head is to be parted from your body, and your body separated in four quarters, and your head and your quarters are to be disposed according to the king's pleasure. And the Lord have mercy on your soul."

Thwing. "Innocens ego sum."

A reprieve being obtained for him, he remained condemned in the castle of York, till the 23d of October, when, according to the sentence, he was drawn, hanged and quartered at York, having first protested his innocence of

all that was sworn against him, but gloried that he was a priest, and had performed the priestly function about 15 years; and desiring all true catholics, if any such were there, to pray for him; and begging God to bless and preserve the king, his queen, the duke of York, and all other good christians, he yielded himself to the executioner. He delivered in writing this following Speech:

"This sudden news of my execution (after my reprieve) coming so unexpectedly, made me fear I should have more severity shewed me than has been to others; and consequently, that I should not have my full liberty to declare my mind in the place of my execution; therefore I have briefly expressed myself in writing, as followeth:

"First, as I hope for salvation and benefit of the blood and passion of my blessed Saviour, I most sincerely protest, that what Rob. Bolron, and L. Mowbray swore against me, was absolutely false; for here, in the presence of the eternal God, I declare I never knew of any consult at Barnbow, the least prejudicial to the king or kingdom; nor was I ever at any such consult, or meeting, with sir T. Gascoigne, Mr. Gascoigne his son, sir Miles Stapleton, the lady Tempest, Mr. Ingleby, or any other, where any thing was treated, spoken, or written, about killing the king, or alteration of the government; nor did I ever see, or know of any List of names of persons mentioned, and sworn by them against me.

"Secondly, Upon my salvation I declare, that I never had been in my whole life-time guilty, even so much as in thought, of any treason against his majesty, or the kingdom; being directly contrary to the principles of our faith.

"Thirdly, That although I have, and do declare against the oath of allegiance, as it is worded, yet it is only by reason of some clauses therein contained, not pertaining to allegiance; and therefore if an oath, containing nothing but allegiance, had been legally tendered me, I should have thought it a sin to refuse it.

"Lastly, I acknowledge myself a priest, and to have (about 15 years) performed the priestly function; which I am so far from denying, that I thought it the greatest honour imaginable.

"Now, dear countrymen, having made this protestation in the most plain and serious terms I could, without all equivocation, or mental reservation whatsoever; I appeal to the eternal judge, whether all good christians ought not rather to believe what is here in this manner sworn by me, in my present circumstances, than what was sworn by my accusers, whom, notwithstanding, I beg of God Almighty to forgive; as also the jury, and all others, who have in any kind, concurred to my death.

Then again professing his innocence, and praying for his king and country, he concluded with these seeming prophetic words.

"Though I know the affairs of the kingdom are in a bad posture, yet I hope they will be cleared ere long; and then the actors thereof will be more fully known."

270. The Trial of ELIZABETH CELLIER,* at the Old Bailey, for writing and publishing a Libel,† September 11th and 13th, 32 CHARLES II. A. D. 1680.

Clerk of the Crown. MRS. Cellier, look to your challenges; for the Jury that is to be sworn is to pass upon you.

Cellier. Am I for my life?

Cl. of Cr. No, but look to your challenges.

Lord Mayor. But if you challenge, you must give a reason for it, Mrs. Cellier.

Cl. of Cr. Swear John Ainger. [Which was done.]

Cl. of Cr. Swear Richard Boys.

Cellier. I challenge him.

Lord Mayor. Mrs. Cellier, you must shew a cause for your challenge.

Cellier. I did not know that, my lord.

Baron Weston. You can challenge none in this case without a cause.

Cellier. My lord, I did not know that: Then I agree he shall be sworn. [Which was done.]

Then the rest of the Jury, without any more challenges, were sworn; and they were all as follows: John Ainger, Richard Boys, John Stephens, Thomas Phelps, Gilbert Urwin, Edward Allanson, Richard Liveing, John Coggs, Henry Hogsden, John Barnard, Edward Low, James Southern.

Then Proclamation was made in common form for Information; and the clerk charged the Jury thus:

Cl. of Cr. You gentlemen that are sworn, Elizabeth Cellier stands indicted by the name of Elizabeth Cellier, wife of Peter Cellier, of the parish of St. Clement-Danes, in the county of Middlesex, gent. For that she being of the

* From a pamphlet intitled "The Trial and Sentence of Elizabeth Cellier; for writing, printing, and publishing, a scandalous Libel, called *Malice Defeated*, &c. At the Sessions in the Old-Bailey, held Saturday the 11th and Monday the 13th of Sept. 1680. Whereunto is added several Depositions, made before the right honourable the Lord Mayor. London, printed for Thomas Collins, at the Middle-Temple-Gate, 1680."

"September 13th, 1680. I do appoint Thomas Collins stationer, to print the Trial of Mrs. Cellier at the Sessions, and that no other do presume to print the same.

ROBERT CLAYTON, Mayor."

† See her Trial for High Treason, *supra*, p. 1043. In the 4th vol. of the *Harleian Miscellany*, p. 136, is printed, "A Scheme for the Foundation of a Royal Hospital, and raising a Revenue of 5. or 6,000*l.* a year, by and for the maintenance of a Corporation of skilful Midwives, and such Foundlings or exposed children as shall be admitted therein, as it was proposed and addressed to his majesty king James the Second, by Mrs. Elizabeth Cellier, in the month of June, 1687."

Popish Religion, not having the fear of God before her eyes, but being moved and seduced by the instigation of the devil, falsely and maliciously endeavouring and intending our sovereign lord king Charles the 2nd that now is, and the government of this kingdom of England, as also the true Protestant Religion, within this kingdom of England by law established, to bring to hatred and contempt; and also to bring scandal and infamy upon divers persons produced as witnesses, that gave evidence on the part and behalf of our sovereign lord the king, against her the said Elizabeth Cellier, and other persons indicted of High-Treason; the 1st of September, in the 32nd year of our sovereign lord king Charles the 2nd that now is, at the parish of St. Clement-Danes, in the county of Middlesex aforesaid, falsely, maliciously and seditiously did write and publish, and did cause to be writ, imprinted and published a scandalous Libel, intituled, '*Malice Defeated: Or, a brief Relation of the Accusation and Deliverance of Elizabeth Cellier: Wherein her Proceedings, both before and during her confinement, are particularly related, and the Mystery of the Meal-Tub* * fully discovered: Together with an abstract of her Arraignment and Trial: Written by herself for the satisfaction of all lovers of undisguised truth.' In which said Libel are contained these false, feigned, scandalous words, and figures following, to wit: 'I hope it will not seem strange to any honest and loyal person of what way or religion soever, that I being born and bred up under Protestant parents, should now openly profess myself of another church (meaning the church of Rome;) for my education being in those times, when my own parents and relations, for their constant and faithful affection to the

* Of her concern with the Meal-Tub Plot, see some accounts in the Report of her Case for High Treason, *supra*, p. 1043.

Sir William Temple calls the Meal-Tub Plot an intrigue, which he could never make any thing of nor thought worth his enquiry; and he says, that lords Essex and Halifax, upon the private examination of it, took such a distaste at finding themselves mentioned in it, and yet left out of the secret examinations about it, that their discontents grew open against the court, and lord Essex left the Treasury.

Sir William Williams, the Speaker, in pronouncing Sentence of Expulsion upon sir Robert Peyton, for "negotiating with the duke of York, by means of lord Peterborough, Mrs. Cellier and Gadbury, when they were turning the Popish Plot upon the Protestants; told him, "You have sat betwixt the Devil and the Witch—Mr. Gadbury and Mrs. Cellier." See 4 Cobb. Parl. Hist. 1233.

king and royal family, were persecuted, the king himself murdered, the bishops and church destroyed, the whole loyal party, merely for being so, oppressed and ruined; and all, as was pretended by the authors of these villainies, for their being papists and idolaters, the constant character given by them to the king and his friends to make them odious, they assuming to themselves only the name of protestants, and making that the glorious title by which they pretended right to all things: These sorts of proceeding, as I grew in understanding, produced in me more and more horror of the party that committed them, and put me on enquiry into that religion to which they pretended the greatest antipathy; wherein, I thank God, my innate loyalty not only confirmed, but encouraged me. And let calumny say what it will, I never heard from any papists, as they call them, priest nor layman, but that they and I, and all true catholic's owe our lives to the defence of our lawful king, which our present sovereign Charles 2, is, whom God long and happily preserve so. These sorts of doctrines agreeing to my public morals, and no way, as ever I was taught, contradicting my private ones, commending at the same time to me charity and devotion; I without any scruple have hitherto followed, glorying to myself to be in communion with those who were the humble instruments of his majesty's happy preservation from the fatal battle at Worcester; and who, though poor, no temptation could invite to betray him to those who by a pretended protestant principle sought his innocent blood. These truths, I hope, may satisfy an indifferent person in my first change; nor can they wonder at my continuance therein, that notwithstanding the horrid crimes of treason and murder laid to the charge of some persons, considerable for their quality and fortunes in that party: For, when I reflected who were the witnesses, and what unlikely things they deposed, and observed that many of the chiefest sticklers for the Plot were those, or the sons of those, that acted the principal parts in the last tragedy, which history told me too had the prologue of a pretended Popish Plot; I say, these things made me doubtful of the whole; and the more I searched for truth, the more I doubted that the old enemies of the crown were again at work for its destruction. I being fully confirmed in this, thought it my duty through all sorts of hazards, to relieve the poor imprisoned catholics, who in great numbers were locked up in gaols, starving for want of bread: And this I did some months before I ever saw the countess of Powis, or any of those honourable persons that were accused, or receiving of one penny of their money directly or indirectly, till about the latter end of January (1678.) And in another part of the said Libel are contained these false, feigned and scandalous words and figures following; to wit, 'About this time I went daily to the prisons to perform those

offices of charity I was obliged to; and on Thursday, January the 9th (1678.) I dined in Newgate in the room called the Castle, on the master's side debtors, and about four in the afternoon I came down into the Lodge with five women, of which three were protestants, and we all heard terrible groans and squeaks, which came out of the dungeon called the Condemned Hole. I asked Harris the turnkey what doleful cry it was; he said it was a woman in labour. I bid him put us into the room to her, and we would help her. But he drove us away very rudely, both out of the lodge and from the door. We went behind the gate and there listened, and soon found that it was the voice of a strong man in torture, and heard as we thought between his groans the winding up of some engine. These cries stopped the passengers under the gate, and we six went to the turner's shop without the gate, and stood there amazed with the horror and dread of what we heard; when one of the officers of the prison came out in great haste, seeming to run from the noise. One of us caught hold of him, saying, Oh! what are they doing in the prison? Officer. I dare not tell you, mistress. It is a man upon the rack: I'll lay my life on it. Officer. It is something like it. Cellier. Who is it, Prance? Officer. Pray, madam, do not ask me, for I dare not tell you. But it is that I am not able to hear any longer. Pray let me go. With that he ran away towards Holborn as fast as he could. We heard these groans perfectly to the end of the Old Bailey. They continued till near seven o'clock, and then a person in the habit of a minister, of middle stature, grey-haired, accompanied with two other men, went into the lodge. The prisoners were locked up, and the outward door of the lodge also, at which I set a person to stand, and observe what she could, and a prisoner loaded with irons was brought into the lodge, and examined a long time. And the prisoners that came down as low as they could, heard the person examined with great vehemency say often, I know nothing of it, I am innocent, he forced me to belie myself. What would you have me say? Will you murder me because I will not belie myself and others? Several other such like expressions they heard spoken as by one in great agony. About 4 o'clock next morning, the prisoners that lay in a place above the Hole heard the same cry again two hours, and on Saturday morning again; and about 8 o'clock that morning a person I employed to spy out the truth of that affair, did see the turnkeys carrying a bed into the Hole. She asked who it was for; they told her it was for Prance who was gone mad, and had tore his bed in pieces. That night the examiners came again, and after an hour's conference Prance was led away to the Press-Yard. This and many things of the like nature, made me very inquisitive to know what passed in the prison. Soon after this Francis Corral a coachman,

‘ that had been put into Newgate upon suspicion of carrying away sir Edmundbury Godfrey’s body, and lay there thirteen weeks and three days in great misery, got out. I went to see him, and found him a sad spectacle, having the flesh worn away, and great holes in both his legs by the weight of his irons, and having been chained so long double, that he could not stand upright; he told me much of his hard and cruel usage, as that he had been squeezed and hasped into a thing like a trough, in a dungeon under ground; which put him to inexpressible torment, insomuch that he swooned, and that a person in the habit of a minister stood by all the while. That a duke beat him, pulled him by the hair, and set his drawn sword to his breast three times, and swore he would run him through; and another great lord laid down a heap of gold, and told him it was 500*l.* and that he should have it all, and be taken into the aforesaid duke’s house, if he would confess what they would have him; and one F. a vintner, that lives at the sign of the Half-Moon in Ch-si- by whose contrivance he was accused, took him aside, and bid him name some person, and say, they employed him to take up the dead body in Somerset-Yard, and gave him money for so doing; that if he would do this, both F. and he should have money enough. He also told me, that he was kept from Thursday till Sunday without victuals or drink, having his hands every night chained behind him, and being all this time locked to a staple which was driven into the floor, with a chain not above a yard long: That in this great extremity he was forced to drink his own water; and that the jailor beat his wife because she brought victuals, and prayed that he might have it, and threw milk on the ground, and bid her begone, and not look at him.’ And in another part of the said Libel, is contained, amongst other things, these false, feigned, and scandalous words and figures following, to wit, ‘ My arraignment (which in confidence of my own innocency, I continually pressed for) not but that I knew the danger, as to this life, of encountering the devil in the worst of his instruments, which are perjurers encouraged to that degree as that profligated wretch’ (meaning Thomas Dangerfield, produced as a witness against her for High Treason) ‘ was, and hath been since his being exposed to the world in his true colour, both at mine and another’s trial.’ And in another part of the said Libel are contained these false, feigned and scandalous words and figures following, ‘ Nor have I since received any thing towards my losses, or the least civility from any of them, whilst Dangerfield’ (meaning the said Thomas Dangerfield) ‘ when made a prisoner for apparent recorded rogueries, was visited by and from persons of considerable quality, with great sums of gold and silver, to encourage him in the new villanies he had undertaken, not against me alone, but persons in whose safety all good men, as well

‘ Protestants as others in the three kingdoms, are concerned.’ And in another part of the said Libel called, ‘ A Postscript to the impartial readers,’ are contained these false, feigned, and scandalous words following, to wit, ‘ And whensoever his majesty pleases to make it as safe and honourable, as it is apparent it hath been gainful and meritorious to do the contrary; there will not want witnesses to testify the truth of more than I have written, and persons that are above being made the hangman’s hounds for weekly pensions, or any other considerations whatsoever;’ to the evil and dangerous example of all others in the like case offending, and against the peace of our sovereign lord the king, his crown and dignity. Upon this indictment she hath been arraigned, and thereunto hath pleaded, Not Guilty, and for her trial hath put herself upon the country, which country you are; so your issue is to try whether she be Guilty of this offence in manner and form wherein she stands indicted, or Not Guilty. If you find her Guilty, you are to say so; and if you find her Not Guilty, you are to say so, and no more, and hear your evidence.

Then Robert Dormer, esq. of Lincoln’s-Inn, opened the indictment thus:

Mr. Dormer. May it please your lordship, and you gentlemen of the jury: Elizabeth Cellier, the gentlewoman at the bar, the wife of Peter Cellier of the parish of St. Clement-Danes in the county of Middlesex, gentleman, stands indicted of being the author and publisher of a Libel, intituled, “Malice defeated, or a brief Relation of the Accusation and Deliverance of Elizabeth Cellier.” You have heard the indictment read, wherein some clauses of this Libel are recited in the words they were written, and in Mrs. Cellier’s own words, and in other words I will not undertake to repeat them to you.—Gentlemen, this is a Libel so complicated and general, that within this book are contained as many libels of several natures, and against different persons and orders of men, as there are paragraphs; his majesty, the Protestant religion, our laws, government, magistrates, counsellors of state, courts of judicature, the king’s evidence, and the public justice of this kingdom are all aspersed and defamed, by the virulency and malice of this woman’s pen.—She hath charged upon the principles of our religion, the murder of his late majesty, and the greatest impieties that ever were committed.—She accuseth all that have done their duties, or been active in the discovery of the present Popish Plot, to be enemies of the crown, and to be acting over again the tragedy of our late civil war.—She chargeth our laws with cruelties, as inhuman as they are false, in permitting prisoners to starve under their confinement, in admitting of racks and tortures to be used, and that for the worst purposes, thereby to extort perjuries and false evidences against the innocent; to which she would make persons of the best quality of

our nobility, magistracy and clergy, privies and parties.—She libels the king's evidences under the characters of the devil's instruments, and the hangman's hounds; and defames his majesty's government, in saying, it is not safe to speak truth, but meritorious and gainful to do the contrary.—She will appear to you to be so criminal, that nothing can aggravate her offences, unless the impudence of the delinquent, who hath set her name to almost every page of this scandalous Libel; and since the indictment hath been depending, owned, published, and put a value on herself for being the author of so excellent a book.—To the indictment she hath pleaded Not Guilty; if the king's evidence prove the charge, you are to find her Guilty.

Baron Weston. Gentlemen, the charge is but this: First, she is charged with the setting forth this book; in the next place, there are several clauses in that book which she is particularly charged with. Now that which the evidence will prove, must be, first, that the book was owned by her, and published by her; and then, that these particulars charged in the indictment, were in the book; and then you will receive the directions of the Court, of what nature the proofs are. Go on to the evidence, that is your work, fall to your proof.

Mr. Dormer. My lord, we will call our witnesses. William Downing, John Penny, and Robert Stevens. Who appeared and were sworn.

Mr. Dormer. Will. Downing, Do you tell my lord and the jury what you know of the printing of this libel (shew him the libel), and who brought the sheets to the press.

Downing. My lord, about the 22d or 23d of August—

Baron Weston. Begin with Penny first. Pray what say you to that book?

Mr. Penny. My lord, I was bid to buy a book of that gentlewoman, and I did so. I asked for her by her name.

Bar. Weston. By what name?

Penny. Mrs. Cellier.

Bar. Weston. Is that the gentlewoman?

Penny. Yes, that is the gentlewoman. And she came out to me, and asked what my errand was? I told her it was to have a book: that you may have, said she, if you please. Madam, said I, what is the price? two shillings, said she. Cannot I have them cheaper, said I, no, said she, I sell them to shopkeepers for 18 shillings a dozen, and I must not sell them under here. With that she fetched me a book, and I gave her two shillings, and when she had done, she gave me another little paper.

Bar. Weston. That is not in issue, nor your question now. Did you ask her for the book she published and set out?

Penny. Yes; and she did acknowledge that was her book.

Bar. Weston. What! she did own the book she sold you to be hers?

Penny. This is the book I have in my hand, and I marked every sheet of it; and she told

me there was another little sheet to be added to it; and if any gentleman pleased to send it into the country, that might be put up in a letter to send by the post.

Cellier. May I ask him a question?

Bar. Weston. Tell me your question, and I will ask it.

Cellier. I desire to know if I said any more, than you may have a book, or there is a book. And who asked for a book?

Bar. Weston. Did she say any more than, you may have a book, or, this is the book that I have published?

Penny. When I got the book and paid for it, I turned about again and asked her if it was her own? she told me it was; and more than that, if occasion were, she could have put more in it.

Bar. Weston. Why, Mrs. Cellier, you did not deny this book yesterday; for you may remember when you did say you wanted your witnesses, and if you could but have time to bring them, you would prove the truth of it: we told you you had nothing to prove on this issue of Not Guilty, but that somebody else did publish the book, and you did not. You owned you writ it yourself every word with your own hand.

Cellier. My lord, if I was a foolish vain woman, and did seem to speak some vain words about myself which I did not understand the consequence of, I hope a word vainly spoke by me shall not be brought against me to convict me of a crime.

Bar. Weston. Mrs. Cellier, you do not seem so negligent about yourself, that we may not believe what you say of yourself.

Cellier. But vain foolish words spoke in that nature, I hope shall be no evidence against me.

Bar. Weston. But, however, it is proved against you.

Cellier. Did I say I writ it?

Penny. You told me that was your book.

Cellier. I told you? pray, my lord, put one question to him upon the oath he hath taken: did I say any more, than it was mine, and I sold it? not that I writ it, or was the author of it?

Bar. Weston. Mrs. Cellier, this is a book that is intitled with your name, and sold by yourself. Now in any one's judgment, this is both an owning of the book, and publishing of the book. When you sold it, you gave it out as your book, and it hath in the title page your name as the author of it.

Cellier. My lord, if I could have produced my witnesses, I could have made my defence; they have been at several places for them, they have been all about town, and several ways, at sir Joseph Sheldon's, and a great many other places, and can find none of them.

Bar. Weston. To what purpose should your witnesses come?

Cellier. I should with them have made my defence.

Bar. Weston. If you would have said to us

yesterday, that you had witnesses to prove that any one else writ the book, we would have put off the trial. But you said you writ it every word of it yourself and so owned the issue: But now you pretend you want witnesses; to what purpose would you have them come?

Cellier. It is not the honour of the bench, my lord, to give evidence; and I hope you will not take that advantage of my vain words.

Bar. Weston. It is the honour of the bench to repeat what you say; when you ask time to put off your trial, and the court gives you direction to what purpose witnesses may be used, and you renounce that, and take the fact upon yourself.

Cellier. But I hope that is no evidence.

Bar. Weston. It was spoke openly in the court, every body heard it.

Cellier. I am surprized, and have no witnesses.

Bar. Weston. It is easy to pretend that you want witnesses; but to what purpose would you have them?

Cellier. My lord, I hope you will please to remember he swears, I only said it was mine, not that I was the author.

Att. Gen. (Sir Creswell Levinz). If you sold it, that is a publishing in law, and is within the indictment.

Cellier. But he did not say I writ it.

Bar. Weston. Pray, Mrs. Cellier, do not trust yourself upon that: for he said, after he had it, he asked you, is this your book? you said, yes, it is my book; and if I had been aware, I could have put a great deal more in it than I have done.

Cellier. But I did not say I writ it.

Penny. You said, if it were to be writ again, you could put more in it.

Cellier. I said it was my book; and so it was, because it was in my possession; but not that I writ it. This is my fan, but it does not follow that I made it.

Bar. Weston. But the question was concerning the author of the book.

Cellier. He did ask me no such question. Did you ask me if I was the author?

Penny. No, I did not.

Bar. Weston. But what did you ask her?

Penny. I asked her, whether it were her book?

Bar. Weston. And did she own it?

Penny. Yes, she did.

Cellier. So it was mine in possession.

Bar. Weston. Did you mean by your question, Whether that book was her's in property or she were the author and publisher of it?

Penny. I would know whether it was her's or no.

Bar. Weston. But what was your intention in asking? Was it whether she, or any other person made it?

Penny. I don't know who made it, she told me it was her's.

Bar. Weston. But what was your meaning in it?

Penny. My intention was, for fear she should have given me some other book, to know whether it was writ by her or no.

Cellier. My lord, I am not to be judged by his meaning; but by his question and my answer.

Att. Gen. Did she tell you she sold more of them?

Penny. I turned about when I had the book and said I, can I have, if occasion be, any more? She said she had but four or five hundred left, and in a few days she should have more.

Att. Gen. You told us, she told you what she sold them for by the dozen.

Penny. Yes, 18s. the dozen to the shopkeepers.

Bar. Weston. Then set up Downing. [Which was done.] Pray look upon that book and the title of it. [Which he did.] Have you examined that book?

Mr. Downing. Sir, I printed part of it.

Bar. Weston. But have you examined that very pamphlet?

Downing. Yes, I know it very well.

Bar. Weston. Did you print part of it?

Downing. Yes, I did.

Bar. Weston. Who brought it to you to be printed?

Downing. Mrs. Cellier.

Bar. Weston. She herself?

Downing. My lord, about the 22d of August a messenger came to me from Mrs. Cellier, to tell me she had something to be printed; and she sent for me to her house, and I went to her house in Arundel-buildings. She told me she had a book to print, and it was her own case. I told her I was a stranger to her concerns; if there was nothing in it that was offensive, I would print it. She told me there was nothing but the truth, and I might safely do it. She said, she had been publicly and wrongfully abused, and was resolved to publish her case, and would make the world sensible of the wrong she had sustained. I was apt, upon the plausibleness of her discourse, to believe her; and so I agreed with her to have 10s. a ream for printing, and I was to print four ream of every sheet. And having printed half the book, the messenger found it a-printing at my house, and having thus found out the press, he carried it before the secretary sir Leoline Jenkins, who granted a warrant to bring us both before him; and having taken our examinations, we were bound to appear before the privy council, as soon as notice should be given us of it: And being discharged by the council, we were bound to appear the first day of next term in the King's bench; Since which time she hath printed the other half of her book at some other place. And whereas she promised to indemnify me from all trouble and charge, when I came to pay the clerk of the council his fees, she refused to pay them for me, and told me I had betrayed her; and so notwithstanding her promise, I was obliged to pay the fees myself at the council.

Mr. *Dormer*. Pray, sir, who was it corrected the sheets?

Downing. Sir, they were brought to her.

Mr. *Dormer*. Did she read them and correct them?

Downing. Yes, she looked over them.

Bar. *Weston*. Pray tell me how far it was you printed of the book?

Downing. It was to folio 22.

Bar. *Weston*. All the clauses in the indictment are contained in those pages.

Mr. *Clare*. All but the last in the postscript.

Bar. *Weston*. Have you read it over since?

Downing. So far, my lord, I did print.

Bar. *Weston*. You take it upon your oath, that to the 22d folio of that book that was given in evidence, was printed by you by her direction.

Downing. Yes, I do.

Bar. *Weston*. Then set up *Stevens*. [Which was done.]

Mr. *Stevens*. May it please your lordship, I saw this book a printing at Mr. *Downing's*, and reading some passages in it, I asked him, Mr. *Downing*, do you know what you do? He said it is a truth: Then I asked him who he did it for; he said he did it for Mrs. *Cellier*. I bid him have a care that he did no more than what he could justify; He desired me that I would not hurt him, and I was lothe to do a poor man wrong, but away I went to the secretary; but I asked him before, what was become of the sheets? He said he carried them to Mrs. *Cellier*; said I, did she bring you the copy? Said he, she sent it sometimes by one messenger, sometimes by another, for she sent several: And when I came to her, she did tell me it was her book, and that she kept a man to write it, and she dictated it to another that sat by her; and she often owned it was her book, and she the author of it.

Cellier. I never said so in my life.

Stevens. Mrs. *Cellier*, by the same token when you sent for bail you had occasion to write a note, and I saw you write it, and said, I now find it is none of your hand-writing, by the difference between the note and the copy: said she, I know that well enough; but I keep a man in the house to write it, and I dictated to him, and he wrote. And I have seen there one *Grange* and one *Sing*; but *Grange* hath come to me several times about her's and other business, and she did tell me, she did dictate the book to that man, and paid him for writing it. Says she, I am up very early every morning and preparing and dictating things for the press. She hath put out two sheets since, and this day at one o'clock she hath invited the *Mercuries* and the *Hawkers* to come and receive a new pamphlet.

Bar. *Weston*. Do you know her handwriting?

Stevens. I have not that note by me.

Bar. *Weston*. Did you see the copy?

Stevens. Some part of it I did see.

Bar. *Weston*. Was any part of it her hand-writing?

Stevens. No, I believe it was none of her hand.

Bar. *Weston*. Was it several hands?

Stevens. I saw but one part of the copy, and, that was all of one hand, but not her's, I believe. She said she kept a man to write it, and she had several other things to write to be printed.

Bar. *Weston*. Did she ever before affirm herself to be the author of the book?

Stevens. She did (if it please you) before the secretary and before the council; and said she would answer it. And I have seen her likewise sell several of them several days.

Mr. *Dormer*. Did she deliver any of these books that you know of?

Stevens. I have seen her deliver them out several times before me myself, she can't deny it.

Bar. *Weston*. Compare the book with the indictment.

Mr. *Dormer*. Swear Mr. *Fowler*. [Which was done.]

Bar. *Weston*. What is that *Fowler*?

Mr. *Dormer*. Shew him the book, if you please. [Which was done.] Did you buy any of these books of Mrs. *Cellier*?

Fowler. I bought two of them. I went to her house, and told her I had a letter from a friend out of Oxfordshire, that desired me to buy two of her books.

Mr. *Dormer*. Is that the same in your hand?

Fowler. It is the same, as I believe. Some friends came to my house, and told me they had seen me notoriously in print; so I came to her and told her I had a letter out of Oxfordshire for a book or two of her's. Sir, says she, I will fetch you one presently; she comes again with them. Madam, says I, I believe you have forgotten me.

Cellier. I know you not; I never saw you in my life before.

Fowler. No, I believe not; but yet you could put me in your book.

Bar. *Weston*. Why, what is your name?

Fowler. My name is *Fowler*.

Bar. *Weston*. Where do you live.

Fowler. At the Half-Moon Tavern in Cheapside, when I am at home.

Cellier. Your name is not in the book.

Mr. *Clare*. There is one *F.* that keeps the Half-Moon tavern in Cheapside.

Bar. *Weston*. You swear you had two books of her?

Fowler. Yes. Madam says I, I see you are full of business; so I paid 4s. for them, and away I came.

Mr. *Dormer*. Then you had no discourse with her farther who was the author, had you?

Fowler. No, not a syllable farther. I had only occasion to get a couple of books; for some persons of quality had been at my house, and told me my name was in it, and were pleased to joke with me about it, as particularly Mr. *Henry Killegrew* came one day to my house and called me into the room, says he, you are notoriously in print, and known to be company for a great duke, and great lords; you shall drink a glass of wine now with me, and so tell

me the story; and thereupon I went to her house to buy a couple of books.

Att. Gen. You are the man meant by the (F.)

Fowler. I keep the Half-Moon in Cheapside.

Att. Gen. There is something supposed in this book to be done by you at your going to a man in prison; is that true?

Fowler. That I suppose is cleared by an oath from Corral the coachman; but withal, I gave my oath for it before my lord-mayor myself.

Att. Gen. Pray, for the satisfaction of people, tell us what you know of the matter.

Fowler. The substance of my oath before my lord-mayor was this: That I never was with any great people, as they tax me, in my life, with any great duke or lord: That I never did see any of the things that they say there, that the duke should draw his sword, and a lord proffer 500*l.* or I whisper to the coachman, That he should name some great persons, and then he and I should have money enough.

Bar. Weston. But I come nearer to you with a question, Mr. Fowler.

Fowler. Yes, my lord, if you please.

Bar. Weston. Was one Corral a coachman apprehended for carrying away the dead body of sir E. Godfrey, at your motion and accusation?

Fowler. As to that, I will tell you the occasion of all our discourse, if it may not be too tedious. Upon the death of sir E. Godfrey, a coachman was one day called to carry some gentlemen that were in my house; but they staying a little longer than ordinary, he went away, and, as they say, dropped them; thereupon another coachman was called, which was this Corral mentioned in this libel, and he went up to the gentlemen into the room, and they, to engage him to stay, secured his whip; he comes down and begs a pipe of tobacco of my wife in the bar: Ay, said she, thou lookest like a good honest fellow, and I believe thou hast no hand in the plot (a casual word that was passant at that time); whereupon he begins to tell her, it is very well for him, for he had escaped that danger: Four of them meeting him against St. Clement's church-wall, and swearing damn them he should stand, and do as they would have him; and he saw four, and he saw sir E. Godfrey's body in a sedan, and he shamned upon them that he could not carry him, for that the axletree of his coach was broke. I was in a room by the bar, and I overheard the fellow talk after this rate. I came out, and asked him, said I, Are you sure of this? Then he tells me the same story over again; wherefore I began to ask him, if he were master for himself, or drove for another; the fellow being sensible he had been too lavish in his discourse, pretends to light his pipe in haste, and to run out to see whether the seats of his coach were not stolen out, and I took a candle with me, and went after him to take the number of his coach: By that time I got to the door, he was driving away, though he had left

his whip with the gentleman as security for his stay. I came in, set down the number of his coach in my book, and drew up the substance of their discourse that happened between my wife and him; and I was saying to my wife, I had a mind to stop this fellow at the gate; but it rained, and so I did not, only kept the number of his coach. The next day captain Richardson and the Secondary of the Compter were drinking a glass of wine at my house, where I told them the story, and they blamed me that I had not stopped him. Whereupon capt. Richardson took the number of his coach, and the next day sent his Janizaries abroad, and secured him, and kept him in custody for two or three days.

Baron Weston. When was this?

Fowler. Two or three days after the murder was publicly known of: I think it was Tuesday night that this fellow told me the story, to the best of my remembrance; and the next day I told the captain and the Secondary.

Baron Weston. Was that the next Tuesday after the murder, or the Tuesday seven night?

Fowler. It was the Tuesday seven-night after. They blamed me very much that I did not stop the fellow: I told them how the thing was, and the captain sent his people abroad, and took the coachman up by what marks I gave of him. The next day I was ordered to wait upon the lords at Wallingford-house, where was the duke of Buckingham, my lord Shaftesbury, the marquis of Winchester, two other lords, and major Wildman the secretary; whereby they examined me upon this thing, and what I have declared to your lordships, I declared then. And they brought the fellow in face to face; and there he does confess the whole matter, and made a great whining and clutter, that John Such-a-one, a coachman, and Mrs. Such-a-one, a strong-water woman, told him this, and that, and the other. The lords sent for two of the persons he named, and both of them being brought before them, the lords were very well satisfied, in that one of them keeps a victualling-house, and they were both of good reputation, they were satisfied it was only a sham, and that he only named them as the first persons that came into his mind. Getting nothing out of him, my lord duke of Buckingham told him, Sirrah, if you will confess, there shall be nothing of what the king hath promised but it shall be made good to you, you shall be sure of it, and you shall be protected. My lord Shaftesbury told him the same; but withal, if he would not confess, and tell him who set him on work, then nothing should be severe enough for him; or words to that effect.

Baron Weston. Upon this accusation was he sent to prison?

Fowler. He was re-ordered to prison, and there continued several months.

Baron Weston. Where? To what prison?

Fowler. To Newgate.

Baron Weston. Were you ever in Newgate, and saw him?

Fowler. Never, not I.

Baron Weston. Did you never see him but at this chamber with the lords, and at your own tavern?

Fowler. Never.

Baron Weston. And you never were in Newgate in your life with him?

Fowler. No, not I.

Baron Weston. Were you ever in Newgate with him with my lord duke of Buckingham, or my lord Shaftesbury, or any other lord?

Fowler. No.

Baron Weston. Or any other duke whatsoever?—*Fowler.* No.

Baron Weston. Or any lord or nobleman whatsoever?

Fowler. No, except four years ago with my lord Petre.

Baron Weston. There is no danger of him. But as to this affair, Were you ever with any?

Fowler. No.

Baron Weston. Did you see any sword drawn, or money offered?

Fowler. There was never a sword drawn, nor money offered.

Att. Gen. Did you ever see 500*l.* laid down upon a table?

Fowler. There was never any sword drawn, nor money laid down.

Baron Weston. He answers that very fully; for he says he was never in Newgate with any nobleman, but once with my lord Petre 4 years ago; and if he was with any nobleman, he is accused to be there in the presence of a duke, and another great earl; and that the duke drew his sword, and the other nobleman laid down a great deal of gold, which he said did amount to 500*l.* and told him it should be his, and that if he would accuse some other persons, they would maintain him; and then he did draw the fellow aside and tell him, Cannot you name somebody? Then you and I may have money enough. This is the accusation of the book: But now it is denied that ever he was in Newgate with any such persons, which is consequently a denial of the whole charge.

Cellier. I did not write that this was true, but I writ that the fellow told me so.

Baron Weston. We will see that in the book in the first place. We have examined this thing by the by, and though it is a little out of the way, yet it may be satisfactory: Read the book.

Cl. of Cr. "Malice defeated," &c.

Baron Weston. Compare it with the record, for she shall have a fair trial, by the grace of God.

Then the several Clauses recited in the Indictment were read over again by the Clerk out of the book, and compared by the judge with the record.

Baron Weston. These are the clauses in the book that are proved exactly upon you. Now I must tell you, because this book doth cast a very great infamy upon our religion, and on the whole government, it ought to be taken notice

of: For in the first place, to contrive to get a man into prison, and by tortures to compel him even to commit perjury: Then to hale another man to prison, and have him thus barbarously used, as to have nobles to come to him, one with a sword drawn, another with money in his hand laying it down as a temptation, and to force him to discover what he was not willing to confess; and then to lay accusation upon the king that he makes it a thing of safety to be the hangman's hounds, and to be accusers for pensions; and shall aver, that when it is as free for her to speak truth, as it is meritorious for them to do otherwise, she will discover such and such things; is a slander that ought to receive a public rebuke: And to satisfy the world of the untruth of it, I would have you prove, if Prance be here and the coachman, what usage they received, to avert that public calumny that it cast upon the nation. For let Mrs. Cellier know, she hath insinuated, as though the murder of the late king was a sufficient ground to pervert her from protestantism, which avowed such practices: When all the world knows, that at that time there were protestants that were far better subjects, and more loyal, than ever any papist was in the world, and as great sufferers for their opposition to that dreadful villainy, nay, far more than the papists can boast of for their loyalty; whereas it is known there were villains under-hand all the while, and those that did encourage all that roguery, and set that faction on foot which brought things to that ill period they came to. Therefore you have set a fair outside upon a damnable lie. And that the arrantest rebellious rogues that ever lived under heaven, are great saints in comparison of protestants, no honest man will believe.

Cellier. I say, they called themselves protestants. I know the protestants were great sufferers for the king, and I myself felt it; our family, which were protestants, were several times stript and plundered for their loyalty. I grant all this.

Bar. Weston. Do you? Then you are an impudent lying woman or you had a villainous lying priest that instructed you to begin your book with such a base insinuation against the best of religions. But I have no more to say to that; for that is such a visible notorious falsity to the knowledge of all Englishmen, and people of understanding, that it needs no greater conviction than the particular knowledge of those men that lived in that time. Therefore for that lie, let it go upon the public infamy that attends on your party, who are notorious liars, and among whom falshood does so much abound. Call Corral and Prance.

Att. Gen. We will give that satisfaction to the people: but the jury are to know that it does not at all concern the matter in issue, for when all that can be said by them is declared, I must say, in point of law, the publishing of a libel, though it be true, yet is a crime, and deserves punishment.

Bar. Weston. I told you so. But, Mr. Attorney, we are to set a fine; and to instruct us for the setting of the fine, it will be a satisfaction to the court to disprove the things she alledges, if you have the witnesses ready; but if you are not ready with your proof, let it alone.

Att. Gen. They are ordered to be here. I only speak that by the way. Swear Mr. Prance [Which was done.]

Bar. Weston. Mr. Prance, pray, were you tortured in prison?

Mr. Prance. No, I never saw any such thing in my life.

Bar. Weston. How were you used?

Prance. Very well; I had every thing that was fitting, captain Richardson did take great care of me.

Bar. Weston. The truth is, the very book itself implies a contradiction. It says there was one tortured in the prison, and the roarings that they heard were like the roarings of a strong man in torture; and yet presently after it says, that the prisoner comes up in irons and is examined. Now could any one having been so lately on the rack, be able to walk and come to be examined? Any man that knows what the nature of a rack is, knows also, that one that has been tortured there, would not be able to heave the irons upon his legs, nor be able to stir or walk; but that is a thing not used amongst us, it was some impudent lying priest durst venture to broach such a calumny.

Cellier. I do not say it was, but it was reported.

Mr. Prance. Dr. Lloyd was with me many times for half an hour together, and if any such thing had been, he would have seen it.

Then Francis Corral was called, but he did not appear.

Capt. Richardson. Corral they have got away; for I had him last night, and he was ordered to be here to day, but here is his wife. [Who was sworn.]

Bar. Weston. Good woman, were you ever with your husband in prison?

Mrs. Corral. I was not suffered to come near him when he was of the master's-side.

Bar. Weston. But when he was out of prison how did he tell you he was used? Did he tell you he was compelled to drink his own piss?

Mrs. Corral. Sunday morning it was before I saw him; nay, I did not see him then, but I was called to bring him victuals, or he would have starved; nay, they say he would be dead before I brought him. So I carried him bread and things, and I did not see him then till almost a fortnight after: and when I saw him he had great fetters on, and I was amazed at them. They put in some charcoal there to warm him, it being very cold; and, said I, Lord, what have you done? You have murdered somebody, sure? but they said, they put on those things to keep his legs warm.

Cellier. Were you ever beaten at any time for bringing your husband victuals?

Mrs. Corral. No indeed, I was never beaten, but they would not suffer me to see him on the master's-side.

Lord-Mayor. Her husband hath denied all upon oath before me.

Bar. Weston. Was he ever hurt with screws, or any such thing?

Cellier. Had he not holes in his legs?

Mrs. Corral. Yes, he had a great many; I did see holes in his legs.

Bar. Weston. Did you?

Mrs. Corral. I did see one, and I can bring them that brought salve to heal it.

Capt. Richardson. There is never an iron in the house that I keep, that weighs twelve pound.

Bar. Weston. They say you have irons called sheers, that weigh forty pound.

Capt. Richardson. If there be one, I will be hanged for it before I go hence.

Cellier. I hope I shall be allowed to make my defence, and call my witnesses.

Bar. Weston. Yes, to be sure.

Cellier. Did not you hear your husband tell me how heavily he was fettered and used? that he was chained to the floor, with a chain not above a yard long; and was forced to drink his own water?

Mrs. Corral. Madam, he is not sensible many times what he does say.

Cellier. But did not you hear him tell me so?

Mrs. Corral. I cannot remember.

Cellier. Did not you tell me, that capt. Richardson drove you away, and would not let you give victuals to your husband?

Bar. Weston. All this is but over and above, for the great matter that sticks upon your part is, the death of sir E. Godfrey, and you are pinched there with Prance's evidence; and so you would make the world believe that he was tortured into his confession, and was mad when he did it, that you may the better turn it off from your own party, on somebody else, on whom I do not know.

Cellier. Pray, my lord, hear me one word: as to your saying, I do it to defend a party, I profess I stand singly and alone; I have been so barbarously used by those you call that party, that the protestants have been abundantly more kind to me than they. And I would not tell the least lie to do them any good turn.

Bar. Weston. Then you are an happy woman indeed, that are beloved by both parties; you have not been serviceable alike to both, I am sure, but that is no great matter; if so be the protestants were so kind, you have requited them ill by such a base libel.

Cellier. I say nothing against them.

Bar. Weston. Can you say any thing that you did not make this pamphlet?

Cellier. My lord, I be not bound to accuse myself, I desire it may be proved.

Bar. Weston. I think it is fully proved.

Cellier. I cannot say any thing without my witnesses, I desire I may call them.

Bar. Weston. Call whom you will.

Cellier. I desire George Grange may be called. [Who was sworn.]

Bar. Weston. What can you say for Mrs. Cellier? Tell me what questions you will ask him.

Cellier. I desire to know whether I did not send him to find witnesses? Who he went for? What answers they returned? And where they be?

Bar. Weston. Well, what witnesses were you sent to look for?

Grange. I went to look for one Mrs. Sheldon that lives in sir Joseph Sheldon's house, and they told me she was in Essex. I went to the coach to send for her.

Bar. Weston. Why Scroggin looked for his knife on the house top?

Mr. Stevens. This man did see her sell these books.

Bar. Weston. Who did you look for besides?

Grange. One Mr. Curtis. And his wife said, she had not seen him since yesterday morning?

Bar. Weston. What were they to prove?

Grange. Truly, my lord, I do not know.

Mr. Dormer. By the oath you have taken, do you know she hath sold any of these books?

Grange. Yes, I do know that she hath sold some of them.

Lord Mayor. There, your own witness, Mrs. Cellier, proves it against you.

Bar. Weston. Who would you have else?

Cellier. I desire that Mary Smith may be called (which was done, but she appeared not then). I desire John Clarke may be sent for from the Gaol.

Capt. Richardson. He is in execution.

Bar. Weston. For what?

Capt. Richardson. For debt.

Bar. Weston. It is not out of the rules of the prison; you may bring him hither, and it is no escape.

Capt. Richardson. If your lordship orders it so, I will bring him.

Lord Mayor. She should have brought an Habeas Corpus, if she would have had him.

Att. Gen. He must bring him through some part, I suppose, that is not within the rules, and then it will be an escape.

Cellier. I pray an Habeas Corpus to fetch him.

Bar. Weston. You might have had one before.

Cellier. This is all because I had no time to prepare for my defence.

Bar. Weston. You might have moved the court for it; they granted you a copy of your indictment.

Cellier. I had it not till nine o'clock to day, and my counsel could not inspect it, nor speak a word with me about it.

Lord Mayor. At what time shall we have done, if we dally after this rate?

Baron Weston. Have you any blank Habeas Corpus?

Cl. of Peace. It could not be sealed, and besides, they should fetch it out of the crown-office.

VOL. VII.

Cellier. I desire to have him come, in order to the defence of something in my book.

Bar. Weston. What would he prove?

Cellier. That I have not belied the government.

Bar. Weston. In what?

Cellier. That he was sheered with long sheers, and unreasonable irons.

Mr. Collins. You cannot do yourself greater wrong than by such talk as this.

Lord Mayor. You are not indicted for your whole book, but for some part of it.

Cryer. Here is Mrs. Smith now. [Who was sworn.]

Cellier. What have you heard Corral the coachman say, about his usage in prison?

Mr. Dormer. I think that question is not to be admitted.

Bar. Weston. What is it you would have her asked?

Cellier. What she heard the coachman say for I only say he told me so.

Mr. Dormer. I am in your lordship's judgment, I think it is not evidence.

Att. Gen. She keeps the coachman away, and now will tell you what he said.

Bar. Weston. That is no evidence, for the coachman might have been here, if you had not sent him away.

Cellier. Let his wife speak that, because she can testify I did not send him away.

Capt. Richardson. She gave them money before, and told them she would maintain them.

Cellier. You are not an evidence against me, you are not sworn.

Capt. Richardson. But, this that I say is sworn.

Bar. Weston. Call her.

Att. Gen. Ask her a proper question to the issue.

Cellier. I would know of her, whether I kept her husband away?

Att. Gen. It may be, you did it without her knowledge?

Cellier. Have I seen her husband without her knowledge?

Bar. Weston. Go on with your witnesses.

Cellier. I desire Mary Johnson may be called.

Bar. Weston. For what? what will she prove?

Cellier. That she was to see for witnesses in order to my defence.

Bar. Weston. But if they are not come, what signifies that?

Cellier. I have done then, my lord; for not having time to get my witnesses, I cannot make my defence so fully, as else I should have done: only I desire you to consider I am a poor ignorant woman, and have erred out of ignorance: I thought nothing, but that I might publish what others had said and told me; and so I have offended in ignorance if I have offended.

Bar. Weston. I do verily believe there are more wits than yours concerned in this book; though you bear the name, yet the book is not

4 H

the effect of your wit only, but you acknowledge enough. And you are to take notice, that the king hath set out a proclamation, that no books shall be printed without a license.

Cellier. I never heard it. I was under close confinement when the king set it out.

Bar. Weston. No, I deny that; for you were enlarged the first day of Trinity-term, and the proclamation came out towards the end.

Att. Gen. She now does confess she knows of it, because she speaks of the time, and that was before her book was written.

Cellier. May not my counsel speak for me? I desire you would hear him.

Mr. Collins. I have nothing to say for her.

Bar. Weston. He says, he hath nothing to say for you.

Mr. Collins. And if you had said less for yourself, it had been better.

Bar. Weston. The question is but Guilty or Not Guilty? whether you published this libel or not? and if the matter of the indictment be proved, what can counsel say, except you can disprove the witnesses, that you did not the fact?

Cellier. Well, my lord, then I beseech you consider me, I am a woman, and deal with me in mercy, as well as justice.

Bar. Weston. Mrs. Cellier, I have not been noted to be a person that use any great severity towards any body, no not towards any of your party; but when I see so much malice as is comprized in your book, and have reason to suspect that this is not acted only by you, though you bear the name of it, but some of your wicked priests are the authors of it, as I am sure they are; then I think it is not severe, that you, who stand at the stake for all, must bear the blame of all. If you will tell us who it was that set you on work, and assisted you in this wicked business, that will be something towards the mitigation of your fine; but if you will take it on yourself, you must suffer the consequence.

Cellier. I beseech you, my lord, have some compassion; his majesty acknowledged before the council, that I had suffered for him; I ventured my life through a sea and an army to serve him; I lost my father and my brother both in a day for him; and if you have no compassion for me, have some commiseration for my loyal parents that lost their estates for him.

Bar. Weston. If you have done service for his majesty, and thereby deserved any thing of him, his majesty hath been so bountiful in the dispensation of his favour, that he would not fail to recompense you for it; but we are to proceed according to the rules of law.

Cellier. But pray have some mercy in your justice.

Bar. Weston. Gentlemen of the jury, this gentlewoman the prisoner stands indicted—

Jury. We have not heard one word that hath been said.

Bar. Weston. No! that is strange; I will acquaint you with as much of the evidence as falls under my information; it had been well

if you had told us this before: the business is this, she stands indicted here for writing and publishing of a very scandalous libel. But pray did not you hear Penny prove that she sold it.

Jury. We heard the three first witnesses.

Att. Gen. There was the proof of the fact.

Baron Weston. The rest of the evidence was but a comparison of the clauses in the book with those in the indictment, which you are to have direction from the court in, that they do: She stands indicted for publishing a libel, and the title of the libel is, "Malice Defeated, or, a brief relation of the accusation and deliverance of Elizabeth Cellier." Now this libel branches itself out into several parts; the first whereof is a very fine insinuation, as though her leaving the protestant religion was, because those that murdered the king, and made that very great subversion that was made in the government by the late Long Parliament, and the army that succeeded them, were protestants—

Cellier. Pray, my lord, I say, called protestants.

Baron Weston. By your favour, she pretends it was by those that were called protestants; but if they were only those that were called protestants, and not protestants, what reason had she to go off from the protestant religion, to turn papist, when there was such a body of loyal protestants that did adhere to the loyal party? Therefore that was as villainous an insinuation as could be; as though the protestant religion did nourish and teach seditious principles, which in the consequence of them tended towards the subversion of the government and order, which certainly it does cherish in the highest degree of any religion in the world, and hath the most peaceable principles in matters of duty, both in subjection to our superiors, and of a charitable deportment of men one towards another: And the practice of those principles hath been seen amongst protestants, especially amongst the English protestants, as much as any nation in the world; this may be said of it to this day, for the reputation of the English nation, that there is more fidelity, honesty, and generous trust amongst them, than among all the nations of the world besides; so that if a man were to go out of England to any other part of the world, he might well use the words of Demosthenes, upon his going out of Athens, at his banishment; "Farewell, beloved city, I am going into a world where I shall not find such friends as I have had enemies here." Friends in other places will be no better than our enemies here; the carriage of Englishmen is so much beyond all others, except the Germans, who, I must confess, are famed for their honesty and integrity one to another; but if you take the French, the Italian, the Spaniard, or any sort of the Levantine people, they live like so many wolves, especially in those places where the popish religion is professed. Now after this insinuation, there is another part of the book recited in the indictment, There was an horrid barbarous murder

that was committed here, and which certainly did fix the accusation of the plot fuller upon them than all the evidence that was given besides, the murder of sir E. Godfrey: A magistrate in doing his duty was most barbarously murdered, and by whom is evidenced by one Praunce: It hath been the whole labour of the party, to cast this murder upon other persons, and take it off themselves; for they find if that accusation sticks upon them, it is a thing of so heinous a nature, that it will make the popish party odious to all mankind. And therefore this they labour at mightily, and this task she hath taken on herself; for knowing Praunce to be a principal witness, she undertakes to let the world know, that Praunce was tortured in prison, to insinuate, that the evidence he gave against those persons that were executed for this murder, was extorted from him by ill and cruel usage. But you must first know, the laws of the land do not admit a torture, and since queen Elizabeth's time there hath been nothing of that kind ever done. The truth is, indeed, in the 20th year of her reign, Campion was just stretched upon the rack, but yet not so but that he could walk; but when she was told it was against the law of the land to have any of her subjects racked (though that was an extraordinary case, a world of seminaries being sent over to contrive her death, and she lived in continual danger); yet it was never done after to any one, neither in her reign, who reigned 25 years after, nor in king James's reign, who reigned 22 years after; nor in king Charles the first's reign, who reigned 24 years after; and God in heaven knows that there hath been no such thing offered in this king's reign; for I think we may say, we have lived under as lawful and merciful a government as any people whatsoever, and have had as little blood shed, and sanguinary executions as in any nation under heaven. Well, but (contrary to the law in this case), she does suppose extraordinary ways were used to make Praunce give this evidence. She says, she thought what she first heard was the noise of a woman with child, and that Harris the turnkey did tell her it was a woman in labour; but when she desired to be let in to help her, he turned her away rudely; but listening, she perceived it was the groans of a strong man that must be in torture: She asked some of the gaolers what was the matter? They told her, They durst not tell her, but it was something they could not endure; and they heard him cry, What would you have me confess? would you have me belie myself? I know nothing of it; and such words as these. Whereupon we have called Praunce, and here, upon his oath, he tells you there was no such matter: That he was used very kindly; had all things fitting, and under no compulsion, so that this is an high libel against the government. She says furthermore, there was one Corral a coachman that was imprisoned by the means of one Fowler for the murder of sir E. Godfrey; that there was a nobleman, a duke, came to him in prison and drew his sword at

him, and would have him confess, that another nobleman laid down a sum of money, and said it was five hundred pounds, and told him, if he would confess, he should have it; and that Fowler took him aside; and bid him lay it upon somebody else, and then he and Fowler should have money enough. Fowler being examined, and upon his oath, tells you upon what account he did charge Corral; he tells you, he was never with Corral in the gaol in his life, and never was with him in the presence of any duke or nobleman but once in a room, where Corral was brought to be examined; and then there was the duke of Buckingham, the marquis of Winchester (who I never heard was a man of cruelty, or harsh nature), my lord Shaftsbury, and major Wildman, who was secretary; but there was no such cruel usage there; and he never was in the prison with such noblemen; and then the consequence is, that the whole story is false. Corral, it seems, my Lord-Mayor says, hath been examined to this point, and denies it all, and is kept out of the way, that he should not give it in evidence here: But if we had him here, it were no great matter; for if there were any thing of this nature true, they are to proceed in a legal way against them that make these transgressions of the law; she ought to have indicted the persons, for they are highly punishable for such extravagancies as these are. But there is nothing done in that kind; but instead of that, she hath defamed them all in a libel; and she is not contented to have done that neither, for she hath defamed the king highly in his government, and said, she could have written more. I pass over the business that concerns Dangerfield, wherein she complains that Dangerfield had more friends, and was visited more by persons of quality, when she had none came to her; every one is visited according to the interest they have in the world, and the friends they make: I have nothing to say to that, there is not so much in it; but come to that part wherein she scandalizes the king, which is this; she says, "Whenever his majesty shall please to make it as safe and honourable to speak the truth, as it is apparent it hath been gainful and meritorious to do the contrary, their villainy will not want witnesses to testify the truth of more than she had written."

So that she supposes, that the king, by the countenancing of lies, and giving pensions to liars, chokes the truth, and makes it dangerous for those that know the truth, to divulge it to the world; which is a very vile scandal upon the king and the government. These are the matters of the libel, and the things in proof have been sworn by three witnesses; one proves, that he went to her to buy one of her books, and he asked her for one, and she gave him a book which bears that title-page that you hear in the indictment, superscribed with her name, and she gives it as her book. Now she would evade it thus, that she gave it as her's, not as though she were the author, but as if it

were her's only in property: but can any such thing be thought the meaning of her words? Or can there be any greater evidence that she is the author of the book, than her publishing of it with her name to it? But the fellow goes further, and tells you, when he had the book, he turned about, and asked her, if it were her book? Yes, she said, it was: and, said she, I could have writ a great deal more, if I would; so that her saying she could have writ more, implies, that she writ that; and (more) is a word of comparison which always supposes the positive proposition. The next is the printer, who tells you, that he printed the first 22 folios, within which the greatest part of this charge, except only that last about the king, is contained. He tells you, that she sent for him, and employed him to print it as her's; agreed with him for 10s. a ream for the printing, and that he did print the first 22 leaves at her request, and as employed by her: Fowler tells you, he bought two of the books of her; and these are the witnesses of the publication of this book. I must tell you this, the clauses in the libel are truly set down in the indictment, for I did examine them one by one. Now whether or no you can doubt she was the author of the book; when in a manner she did own it at the publication, by selling it as her's, I leave to you; though I must tell you plainly, I leave it as that which is to me under the notion of express evidence; but I must leave it to you as judges of the fact, and expect your verdict in the case.

Attorney General. There are three things in the indictment; 1. That she writ it; 2. That she caused it to be printed; and 3dly, That she caused it to be published. Now if you find any one of these, she is guilty of so much at least, though I think you have heard evidence enough for all. She told me it was her's and said, she could have put more in; and the selling the book is a publication. So that if you be not satisfied she was the author, yet if you are satisfied she caused it to be printed; or if you are not satisfied in that, yet if you are satisfied she caused it to be published, you are to find her guilty of so much.

Cellier. The printer does not say I writ it.

Att. Gen. But he does say you gave it him as your's, and to you the sheets were sent to be corrected.

Then the Jury desired they might have the book with them.

Mr. Clare. My lord, the jury wants the book that was sworn to.

Bar. Weston. They can have no papers without agreement, neither the books, nor any paper else.

Att. Gen. Not unless she will consent to it. *Mrs. Cellier,* will you consent that they shall have the book out with them? To which, after some pause, she answered, *No.*

Bar. Weston. Then they cannot have it by law.

Then the Jury withdrew for a little, and returned.

Cl. of Cr. How say you, is Elizabeth Cellier Guilty of the writing, printing, and publishing of the libel for which she stands indicted, or Not Guilty?

Foreman. Guilty. (At which there was a great shout.) And the verdict was recorded.

Bar. Weston. She must stand committed to receive the judgment of the court.

Cellier. Will you give me leave to speak a word now?

Bar. Weston. I cannot give you any judgment, for by the custom of the city, that is to be done by the recorder or his deputy; and so, what you will say to the court, you must say to them; that will be on Monday when the sessions is done.

Cellier. What I would say is only this, that I am a woman, and wherein I offended, I offended out of ignorance, and did not know it was an offence; and if the offence be mine, let not others suffer for me. Have mercy in judgment; and consider my loyal parents and relations, and the services they did his majesty; and let this fault be wiped out by that service and duty I and they paid him; or at least-wise, let the punishment of this offence be mitigated, in consideration that all my life, ever since I had the first use of reason, I have been a loyal subject.

Bar. Weston. These are things that will be considered on Monday, but we cannot take consideration of it now.

Cellier. I will go away then, and come again on Monday.

Bar. Weston. No, you are to be committed till then.

And so the keeper carried her back to Newgate; from whence on Monday the 13th of September, she was brought to the bar to receive her Judgment, which Mr. Recorder gave thus:

Mr. Recorder. (Sir George Jefferies.) *Mrs. Cellier,* the court doth think fit, for example sake, that a fine of 1,000*l.* be put upon you; that you be committed in execution till that thousand pounds be paid: and because a pecuniary mulct is not a sufficient recompence to justice, which you have offended, the Court doth likewise pronounce against you, That you be put on* the pillory three several days, in three several public places: in the first place, in regard her braided ware received its first impression and rent at her own house, it is

* The King against Bowers.

By *Holt*, Chief Justice, to stand in the pillory, or on the pillory, is the same thing in judgment, and both signify to stand in the pillory: 2 Mod. Rep. 385. The judgment now is, that the offender shall "be set in and upon the pillory." And therefore if the undersheriff remit part of the judgment by only setting him upon the pillory, an attachment lies. *Rex v. Beardmore*, 2 Burr. 794.

thought fit that she stand (as near her own house as conveniently can be) between the hours of twelve and one, for an hour's space, at the May-pole, in the Strand, on the most notorious day; I think there is a market near that place, let it be on that day. At another time, that she stand in Covent-Garden on a public day the like space of time; a third time, that she stand at Charing-Cross on the most public day, for the space of an hour. And in the next place, that she find sureties for her good behaviour during her life; and in every place where she shall stand on the pillory, some parcels of her books shall, in her own view, be burnt by the hands of the common hangman; and a Paper of the cause to be put upon the pillory.

Then the Court charged the sheriff, That he take care in every place for a sufficient guard, that the peace may be kept;* and she was returned to the gaol.

In the year 1682 was published "REFLECTIONS upon the Murder of Sir EDMUNDBURY GODFREY: The design of Thompson, Farwell, and Paine, to sham off that murder from the

* "Both the *trebuchetum* and the *collistrigium*," observes Mr. Barrington, Observations on Assisa Panis et Cerevisæ, "were intended 'magis ad ludibrium, et infamiam, quam ad poenam,' say the Glossaries. It may therefore well deserve the consideration of a judge, who inflicts the punishment of the pillory (as it becomes at present the great occasion of mobs and riots) whether it can be reconciled to the original intention of the law in this mode of punishment; as also if this riotous scene ends in the death of the criminal, whether he is not in some measure accessory, both to the riot and the murder." In what follows, there is something bordering upon the ludicrous: "The chief intention of setting a criminal in the pillory is, that he should become infamous, and known for such afterwards by the spectators. Can an offender, whose face is covered with rotten eggs and dirt, be distinguished, so as to prevent his gaining a new credit with those who have occasion afterwards to deal with him?" Mr. Barrington also says, "There hath been more than one instance of such a murder," [of a person suffering the punishment of the pillory]; within the last 20 years." See the Case of M. Daniel and others, A. D. 1754, *infra*. Emlyn in the Preface to his edition of the State Trials [See in this Collection, vol. 1, pp. xxxvi, xxxvii.] observes upon the practicability, and upon the obligation on the officers of the law to protect persons in the pillory from injurious treatment, and inveighs against the neglect of affording such protection. Mr. Barrington (*ubi sup.* and observations on 18 Edw. 2.) has collected some curious particulars respecting the pillorium or collistrigium, and the trebuchetum. See also something concerning the pillory in a Note to lord Audley's Case, *ante*, vol. 3, p. 401.

Papists: The late endeavours to prove Stafford a martyr, and no traitor: And the particular kindnesses of the Observator and Heraclitus to the whole design. In a Dialogue. With a Dedication from Mrs. Cellier. London: Printed for A. B. and published by L. Curtiss, A. D. 1682."

DEDICATION

To the Counts of the Empire, &c.

My Lords; There has been a great hurly-burly about the death of sir Edmundbury Godfrey, public justice has made her report to Heaven, that he was murdered by the Papists; but the Papists scandalized at the wickedness of the action, would fain have made the world believe that he killed himself. My lords; it is well known, how far I have contributed my personal pains, before and since that my advice to bring this noble design to pass. But I think the devil owes us a shame, we have always the ill luck to meet either with fools or knaves: When it comes to the pinch, what we well contrive is defeated, by the ill management of our instruments. The Observator, indeed, did indifferent well; for he gave a sparing-blow at Praunce's reputation, and backed our friend Thompson i'the very nick, the very morning before the trial. I chuckled again when I heard of the vintner's boys; they put me in mind of the St. Omers lads. But as for F. and P. and all their witnesses, it was money merely thrown away. But let us not despond, my lords, if one thing fails another will hit, and we shall hit it at last: In the mean time, it is my advice, that you keep up the Observator's spirits and double his salary. It will be a thorn in their sides that swore him at the queen's chapel, as long as he lives."

Facit Indignatio Dialogos, my Lords—And though the Heraclitic Cabal be of little moment, let it not sink: all helps, as the wren said: but above all (since you may have so many Protestant booksellers to do it) let the lord C.'s Vindication of the English Catholics, his Memento, and the lord Stafford's Memoirs be reprinted. Those gentlemen puzzled the people with their 'if's' and their 'ands' and 'how is it possibles,' at a strange rate. They had a brave design to persuade men out of their reason and their senses; and I am persuaded all that believe in the Observator, and Heraclitus, will believe in them. I beseech you, my lords, take these things into your considerations; for you have leisure enough, and believe that she will never forsake you, unless you forsake her, who is your lordships' most devoted Servant,

ELIZ. CELLIER.

DEPOSITIONS.

Whereas in a Narrative, or printed Book, or Libel called, Malice defeated, or a brief Relation or Accusation of the Deliverance of Elizabeth Cellier:

It is amongst other things in page the third and fourth of the said book written as follow-

eth, viz. Soon after this, Francis Corral, a coachman, that had been put into Newgate upon suspicion of carrying away sir Edmond-bury Godfrey's body, and lay there thirteen weeks and three days in great misery, got out; I went to see him, and found him a sad spectacle, having the flesh worn away, and great holes in both his legs by the weight of his irons, and having been chained so long doubled, that he could not stand upright, he told me much of his hard and cruel usage, as that he had been squeezed and hasped in a thing like a trough, in a dungeon under ground; which put him to inexpressible torment, insomuch that he swooned, and that a person in the habit of a minister stood by all the while. That a duke beat him, and pulled him by the hair, and set his drawn sword to his breast three times, and swore he would run him through; and another great lord laid down a heap of gold; and told him it was 500*l.* and that he shall have it all, and be taken into the aforesaid duke's house if he would confess what they would have him, and one F. a vintner, that lives at the sign of the Half-moon in Ch-si. by whose contrivance he was accused, took him aside, and bid him name some person, and say, they employed him to take up the dead body in Somerset-yard, and gave him money for so doing; that if he would do this, both F. and he, should have money enough. He also told me, that he was kept from Thursday to Sunday without victuals or drink, having his hands every night chained behind him, and being all this time locked to a staple which was driven into the floor, with a chain not above a yard long: that in this great extremity, was forced to drink his own water; and that the gaoler beat his wife, because she brought victuals, and prayed that he might have it, and threw milk on the ground, and not look at him &c. For the reader's farther satisfaction of his great and cruel suffering, I refer to the party himself now living in Gunpowder-Alley in Shoe-Lane, and well known by his misfortunes.

I Francis Corral of Gunpowder Alley in Shoe-lane, being the person before named, make oath that Mrs. Cellier was never with me in the prison of Newgate, and that I never told her there nor any where else that ever I was chained so long double that I could not stand upright, nor never told her that I had any hard or cruel usage there, nor that I was ever squeezed or hasped to a thing like a trough in a dungeon under ground which put me to torment, nor that I swooned, nor that a person in the habit of a minister stood by me at any time whilst in the prison, except when I went into the chapel to prayers; nor that any duke beat me, pulled me by the hair, or set his sword to my breast three times, or swore that he would run me through; nor that any great lord laid down a heap of gold, and told me it was 500*l.* and that I should have it all, and be taken into the aforesaid duke's house if I would confess what they would have me; nor that F. a vintner

that lives at the sign of the Half-moon in Cheapside did take me aside, and bid me name some person, and say they employed me to take up the body in Somerset-yard, and gave me money for so doing, that if I would do this, both F. and I should have money enough; nor did I ever tell her that I was kept from Thursday to Sunday without meat and drink; nor were my hands ever chained behind me; nor was I ever locked to a staple driven into a floor with a chain not above a yard long, but what she hath written in her said book or libel is notoriously false and untrue; but on the contrary, during the time of my imprisonment I was civilly treated by the keeper and his servants.

FRANCIS CORRAL.

Jur. 6. Sept. 1680. Coram me,

ROBERT CLAYTON Mayor.

I Margaret, the wife of the said Francis Corral, make oath, That the said Gaoler never beat me because I brought victuals and prayed that my husband might have it; nor threw any milk on the ground; nor bid me be gone and not look upon him. Neither do I know, or believe, that my husband had any hard usage from any of the keepers during his imprisonment; but on the contrary, was civilly treated by them.

This deponent farther maketh oath, That on Thursday last she went with her husband to Mrs. Cellier's house; and her husband asked her, what she meant by putting such a company of lies upon him in her book. She answered, She had a mind to do it, and that if some of them were lies all were not. He told her, that she would ruin him, and bring him to a prison as he was before. She answered, That if he were arrested, she would bail him; and if he were cast into prison, she would maintain both him and his family, for that she had got money enough, and that she would have me to a lord or lords that would secure him, and bid me cheer up my husband, for that neither I nor my family should want, and gave me then five shillings, and bid me cheer up my husband with that. Sig. MARGARET CORRAL.

Jur. 6, Sept. 1680. Coram me,

ROBERT CLAYTON, Mayor.

I, Francis Corral, within named, further make oath, That on Thursday last, I went with my wife to Mrs. Cellier's house, and asked her what she meant by putting such a company of lies upon me in her book. She answered, that she had a mind to do it, and that if some of them were lies, all were not. I told her, she would ruin me, and bring me into a prison, as I was before. She told me, if I were arrested, that she would bail me; and if I were cast into prison, she would maintain me and my family; for that she got money enough, and that she would have me to a lord or lords that would secure me. And she bid my wife to cheer me up, for that neither I, nor my family should want, and gave my wife five shillings, and bid her cheer me up with that. FRANCIS CORRAL.

Jur. 6, die Sept. 1680. Coram me,

ROBERT CLAYTON, Mayor.

I, Matthias Fowler, living at the Half-Moon in Ch-si. vintner, make oath, That I never saw any duke or lord with Francis Corral, in this paper mentioned, in Newgate; nor did I ever see any duke beat him, or set a sword to his breast; nor did I ever see any lord lay down a heap of gold, and tell the said Corral it was 500*l.*, and the said Corral should have it, if he would swear what the duke and lord would have him. Nor did I ever take him aside, and bid him name some person, and say, they employed him the said Corral to take up the dead body of sir Edmundbury Godfrey's in Somerset-Yard, and gave him money for so doing, and that if he would do this, both he and I should have money enough. But that the same is notoriously false and untrue.

MATTHIAS FOWLER.

Jur. 8, die Sept. 1680. Coram me,
ROBERT CLAYTON, Mayor.

The Indictment in this Case was as follows :

Rex versus Cellier for a Libel.

32 Car. 2, O. B.

ss. Juratores pro Dom' Rege super sacramentum suum præsentant, Quod Eliz' Cellier uxor — Cellier, de parochia sanct' Clementis Dacor' in com' Midd' Gen', eadem Eliz' existen' religionis papalis, Deum præ oculis suis non habens, sed instigatione diabolica mot' et seduct', et falso et malitiose machinans et intendens, serenissimum Dominum nostrum Carolum secundum, Dei gratia Angliæ, Scotiæ, Franciæ, et Hiberniæ Regem, et gubernationem suam hujus regni Angliæ, necnon veram religionem protestan', infra hoc regnum Angliæ lege stabilit', in odium, infamiam, et contemptum inducere et inferre, et scandalum et infamiam imponere super quibusdam personis, qui producti fuissent testes, et testimon' dedissent ex parte dicti Dom' Regis contra præd' Eliz' Cellier, et alias personas, de alta proditiōe indictat' primo die Augusti, anno regni dict' Dom' Regis tricesimo secundo, apud prædict' parochiam sancti Clemen' Dacor' in com' Midd' præd', falso, malitiose, et seditiose scripsit et publicavit, et scribi, imprimi, publicari causavit, quendam fictum, falsum, et scandalosam libellum, intitulat', 'Malice defeated, or a brief relation of the accusation and deliverance of Elizabeth Cellier: wherein her proceedings both before and during her confinement are particularly related, and the mystery of the Meal Tub fully discovered; together with an abstract of her arraignment and trial, written by herself for the satisfaction of all lovers of undisguised truth.' In quo quidem libello continentur hæc falsa, ficta, et scandalosa verba, et figuræ sequentia: ss. 'I hope it will not seem strange to any honest and loyal person, of what way or religion soever, that I, being born and bred up under protestant parents, should now openly profess myself of another church (Ecclesiam Romanam, innuendo) for, education being in those times when my

own parents and relations, for their constant and faithful affection to the king and royal family, were persecuted, the king himself murdered, the bishops and church destroyed, the whole loyal party, merely for being so, oppressed and ruined, and all, as was pretended by the authors of these villanies, for their being papists and idolaters, the constant character given by them to the king and his friends; and to make them odious, they assuming to themselves only the name of Protestants, making that the glorious title by which they pretended right to all things. These sort of proceedings, as I grew in understanding, produced in me more and more horror of the party that committed them, and put me on enquiring into that religion to which they pretend the greatest antipathy, wherein, I thank God, I found my innate loyalty not only confirmed, but encouraged; and, let calumny say what it will, I never heard from any papist, as they call them, priest or layman, but that they and I, and all true catholics, owe our lives to the defence of our lawful king, which our present sovereign Charles the second is, whom God long and happily preserve so. These sort of doctrines agreeing to my public morals, and no way, as ever I was taught, contradicting my private ones, commending at the same time to me charity and devotion, I without any scruple have hitherto followed glorying myself to be in communion with those (papistas innuendo) who were the humble instruments of his majesty's happy preservation from the fatal battle at Worcester, and whom though poor, no temptation could invite to betray him to those, who by a pretended Protestant principle sought his innocent blood. These truths, I hope, may satisfy any innocent person in my present change; nor can they wonder at my continuance therein, notwithstanding the horrid crimes of treason and murder laid to the charge of some persons, considerable for their quality and fortunes, in that party: For when I reflected who were witnesses, and what unlikely things they deposed, and observed that many of the chiefest sticklers for the Plot were those, or the sons of those, that acted the principal part in the last tragedy, which history told me too had the prologue of a pretended popish Plot; I say, these things made me doubtful of the whole; and the more I searched for truth, the more I doubted that the old enemies of the crown were at work again for its destruction. I being fully confirmed in this, thought it my duty, through all sorts of hazards, to relieve the poor imprisoned catholics who in great numbers were locked up in gaols, starving for want of bread; and this I did some months before I ever saw the countess of Powis, or any of those honourable persons that were accused, or receiving one penny of their money, directly or indirectly, till about the latter end of January (1678) the prisoners increasing very much.' Et in alia parte ejusdem libelli (inter alia) continentur

hæc falsa, ficta, et scandalosa verba, ss. ' About this time I went daily to the prisons, to perform those offices of charity I was obliged to; and on Thursday January 9, (1678.) I dined in Newgate, in the room called the Castle, on the master debtors side; and about four in the afternoon I came down into the Lodge, with five women, of which three were protestants; and we all heard terrible groans and squeeks, which came out of the duageon called the Condemned Hole: I asked Harris the turnkey what doleful cry it was; he said it was a woman in labour; I bid him put us into the room to her, and we would help her; but he drove us away very rudely, both out of the lodge, and from the door. We went behind the gate, and there listened, and soon found that it was the voice of a strong man in torture, and heard, as we thought, between his groans, the winding up of some engine. These cries stopped the passengers under the gate; and we six went to the Turner's shop without the gate, and stood there, amazed with the horror and dread of what we heard; when one of the officers of the prison came out in great haste, seeming to run from the noise: One of us caught hold of him, saying, Oh! what are they doing in the prison? Officer. I dare not tell you, mistress. Cell. It is a man upon the rack, I will lay my life on it. Offic. It is something like it. Cellier. Who is it, Praunce? Offic. Pray, Madam, do not ask me, for I dare not tell you; but it is that I am not able to hear any longer; pray let me go. With that he ran away towards Holbourn as fast as he could. We heard these groans perfectly to the end of the Old-Bailey: They continued till near 7 of the clock; and then a person in the habit of a minister, of a middle stature, grey-haired, accompanied with two other men, went into the lodge; the prisoners were locked up, and the outward door of the lodge also, at which I set a person to stand and observe what she could; and a prisoner loaded with irons was brought into the lodge, and examined a long time; and the prisoners that came down as low as they could, heard the person examined, with great vehemency say often, I know nothing of it; I am innocent; he forced me to bely myself; what would you have me say? will you murder me because I will not bely myself and others? Several other such like expressions they heard spoken, as by one in great agony. About four of the clock the next morning the prisoners, that lay in a place about the Hole, heard the same cry again two hours, and on Saturday morning again; and about eight of the clock that morning, a person I employed to spy out the truth of this affair, did see the turnkeys carry a bed into the Hole: she asked who it was for; they told her it was for Praunce, who was gone mad, and had torn his bed in pieces. That night the examiners came again, and Praunce was led away to the Press-yard. This, and many things of like nature, made me very inquisitive to know what passed in the prison. Soon after this Francis Corral a

Scotchman, that had been put into Newgate upon suspicion of carrying away sir Edmund-bury Godfrey's body, and lay there 13 weeks and 3 days in great misery, got out: I went to see him, and found him a sad spectacle, having the flesh worn away, and great holes in both his legs, by the weight of his irons; and having been chained so long double, that he could not stand upright: He told me much of his hard and cruel usage, as that he had been squeezed and hasped into a thing like a trough in a duageon under ground, which put him to inexpressible torment, insomuch that he swooned; and that a person in the habit of a minister stood by all the while; that a duke beat him, pulled him by the hair, and set a drawn sword to his breast three times, and swore he would run him through; and another great lord had laid down a heap of gold, and told him it was 500*l.*; that he should have it all, and be taken into the aforesaid duke's house, if he would confess what they would have him: And one F. a vintner, that lives at the sign of the Half-Moon in Ch——St——, by whose contrivance he was accused, took him aside, and bid him name some person, and say they employed him to take up the dead body in Somerset-yard, and gave him money for so doing; that if he would do this, both F. and he should have money enough. He also told me, that he was kept from Thursday till Sunday without victuals or drink, having his hands every night chained behind him; and being all this time locked to a staple, which was driven into the floor, with a chain not above a yard long; that in this great extremity he was forced to drink his own water; and that the gaoler beat his wife because she brought victuals, and prayed he might have it, and threw milk on the ground, and bid her be gone, and not look at him.' Et in altera parte ejusdem libelli continent' (inter al') hæc falsa, ficta et scandalosa verba sequentia: ss. ' My arraignment, which, in confidence of my own innocency, I continually pressed for; not but that I knew the danger, as to this life, of countering the devil in the worst of his instruments, which are perjurers encouraged to that degree, as that profligated wretch, quendam Thomam Dangerfield testem product' ex parte Dom. Regis contra præd' Elizabetham Cellier, pro alta proditione innuendo) ' was, and has been since his being exposed to the world in his true colours, both at mine and another's trial.' Et in altera parte ejusdem libelli continentur hæc falsa, ficta, et scandalosa verba sequen': ss. ' Nor have I since received any thing towards my losses, or the least civility from any of them, whilst Dangerfield, prædict' Thomam Dangerfield iterum innuendo ' when made a prisoner for apparent recorded rogueries, was visited by and from persons of considerable quality, with great sums of gold and silver, to encourage him in the new villainies he had undertaken, not against me alone, but persons, in whose safety all good men (as well protestants as others) in the three kingdoms are concerned.' Et in altera parte ejus-

dem libelli, vocat' 'A postscript to the im-
'partial reader,' continent' hæc falsa, ficta, et
scandalosa verba sequentia: ss. 'And when-
'soever his majesty pleases to make it as safe
'and honourable to speak truth, as it is appa-
'rent it hath been gainful and meritorious to do
'the contrary, there will not want witnesses to

'testify the truth of more than I have written,
'and persons that are above being made the
'hangman's hounds for weekly pensions, or any
'other considerations what-soever.' In malum
et perniciosissimum exemplum omn' alior' in
tali casu delinquin' contra pacem dict' Dom
Regis, coron', et dignitat' suas.

271. Proceedings against the Five Popish Lords, viz. the Earl of Powis, Lord Viscount STAFFORD, Lord PETRE, Lord ARUNDEL of WARDOUR, and Lord BELLASYSE, for High Treason: Together with the Trial of Lord Viscount STAFFORD: 30 CHARLES II.—1 JAC. II. A. D. 1678—1685.

[Of these five Lords, only one (Stafford) was brought to trial. The Proceedings against the others are nevertheless interesting and instructive in many respects; it is therefore thought proper not to omit them: and as those Proceedings are intimately connected with the Trial of Lord Stafford, arose out of the same transaction, and upon one prosecution, the whole are incorporated into one article, in order to avoid the many repetitions or references which would be inevitable if the Cases were separated.]

HOUSE OF LORDS, October 25, 1678.

THE lord viscount Stafford acquainted the House, That he was informed that there was a warrant issued out, from the Lord Chief Justice of England, to apprehend him; which he thought fit to acquaint their lordships with, and submitted himself to their lordships' judgment.

The Lord Chief Justice, being present, was commanded to give the House an account of the business:

Who said, That last night about 9 o'clock, he received a letter from the Speaker of the House of Commons, dated from the Speaker's chair, to come to the House of Commons about business of great concernment. Accordingly he attended the House of Commons; where the Speaker told him, That the House of Commons had received accusations of High Treason against Five Lords and some gentlemen, and desired him to issue out his warrants for their apprehension. The persons were, the earl of Powis, viscount Stafford, the lord Arundel of Wardour, the lord Petre, and the lord Bellasis; and, upon this, he issued out his warrants for their apprehension; having taken the examination of Titus Oates upon oath: That the earl of Powis and the lord Arundel were brought to him this morning, in custody; and he advised them to render themselves to the Gatehouse, where now they are.

Upon this, the examination of Oates was read; whereby it did appear, that the lord viscount Stafford was charged to be in a conspiracy of treason against the king.

The lord viscount Stafford denied the fact; and after this withdrew.

And after a while the House was informed,

That his lordship would render himself to the Lord Chief Justice.

After some debate of this business, the further consideration was put off until to-morrow.

October 26.

The House being informed, That the lord Bellasis having all his papers seized by virtue of the Lord Chief Justice's warrant, he desires that the said papers may be sealed up in a bag, and brought into this House. Which was ordered. And the like Order to be for all the lords who are apprehended by virtue of the warrant from the Lord Chief Justice.

The lord Petre, being in the House, took notice, That he heard of a warrant issued out against him by the Lord Chief Justice of England; and he desired to know the cause of it. Hereupon the House directed the Lord Chancellor to acquaint his lordship what account the Lord Chief Justice gave the House yesterday, and upon what grounds he issued out his warrant for apprehending him and several other lords, for High Treason. His lordship withdrew himself; and the House made these Orders following:

"Ordered, by the Lords spiritual and temporal in parliament assembled, that the gentleman usher of the black rod attending this House, do forthwith take the lord Petre into his custody, and carry him in safety to the Tower of London, for treason wherewith he is charged, there to remain till he shall be discharged by due course of law; and this to be a sufficient warrant on that behalf.

"To sir Edward Carteret, gentleman usher of the black rod attending this House, his deputy and deputies."

"Ordered, by the Lords spiritual and temporal in parliament assembled, That the constable of his majesty's Tower of London, or his deputy, do receive the body of the lord Petre, for treason wherewith he is charged, and keep him in safe custody within the said Tower, till he shall be discharged by due course of law; and this shall be a sufficient warrant on that behalf.

"To the constable of his majesty's Tower of London, his deputy and deputies, and every of them."

October 29.

The House being informed, That the lord Bellasis, now a prisoner in the prison of the King's Bench, by warrant of the Lord Chief Justice of England, for treason, is so ill, that he cannot without danger be removed: It is ordered, That sir Charles Scarborough be, and is hereby, appointed to go and visit the said lord Bellasis, and give this House an account tomorrow morning in what condition of health he finds him.

Ordered, That his majesty be humbly desired from this House, that the lord Bellasis, now a prisoner in the prison of the King's Bench, by warrant of the Lord Chief Justice of England, for treason, being, as is informed, so ill that he cannot be removed, may have a guard set on him there; and that notice be taken of the names of all such persons as shall come to visit his lordship there.

October 30.

This day Dr. Scarborough gave the House an account: That he did visit the lord Bellasis this morning, and finds him in good health; and that his lordship is ready to be removed, as their lordships shall think fit.

Ordered, That the Lords with white staves do attend his majesty, humbly to desire him from this House, that the lord viscount de Stafford, and the lord Bellasis, and col. Roper and his son, and Mr. Ratcliffe, being prisoners in the prison of the King's Bench, by warrant of the Lord Chief Justice of England, for treason, may be removed, to remain prisoners in his majesty's Tower of London.

HOUSE OF COMMONS, October 30, 1678.

Mr. Sacheverell reports, from the committee which by Order of the House was appointed to take the examination of Mr. Coleman, That the committee went to Newgate: and laying before Mr. Coleman his present danger; and that he could have no hopes to escape it, but by a full and plain discovery of his whole knowledge of the conspiracy; Mr. Coleman without any particular questions put to him, said to the effect following:

As to any design against the king's person; or for the taking away of his life; or the lessening of his power, he totally denies any knowledge of it, or that he ever did design it, or ever

heard of any such design or intention, either directly or indirectly: He totally denies, that he ever knew or heard of any commissions for raising an army, or any intent or design of raising an army, till of late that he heard so, when he was examined by the Lords: He utterly denies, that he ever designed or endeavoured to change the religion established in this kingdom, or to introduce Popery; but confesses, he did endeavour to have this parliament dissolved, and by that means to gain a liberty of conscience; which he thought this parliament would never grant: And said, He observed every sessions of parliament the growth of Popery complained of, notwithstanding all their endeavours against it; and believed the Catholic religion to be the true one, and the Protestant the false; and therefore only proposed a toleration, as concluding, that if the Catholic religion stood upon equal ground, it would prevail: And says, He did endeavour to get 300,000*l.* from France; hoping that thereby his majesty might be prevailed on to dissolve this parliament, rather than wait for an uncertain sum: And says, there was not three men in England acquainted with these his designs, or with his correspondence; but that the duke of York was acquainted with them; and he believes he communicated them to my lord Arundel of Wardour: And said, He concluded it most probable to have money from France for dissolving this parliament; in regard the confederacy against France was chiefly supported and held together by the countenance and expectation they had from this parliament.

The first correspondence, he says, which he had in France, was by some letters of news, which he wrote to sir Win. Throgmorton, about the time of the siege of Mاستrecht; any news being welcome at a siege; and by that way the correspondence between him and La Ferrier was introduced: and says, That upon the death of La Ferrier, which was about the time that the French king possessed himself of French Countee (which, he takes it, was the year after the siege of Mاستrecht) he sent a narrative to La Chaise, to give him an account of the transactions that had passed betwixt La Ferrier and him; but after that wrote not above three or four letters to La Chaise; and that then the correspondence betwixt them ceased.

He also said, That he had kept a correspondence with the pope's nuncio at Bruxells; which correspondence was first introduced by a proposition that Father Patrick brought from the nuncio there into England, of a great sum of money that should be given by the pope to the king of England, if the catholics here in England might have some favour, answerable to it: but the proposition being so confused that they did not understand it, he was sent by the duke of York to the nuncio at Bruxells, to understand the proposition.

And he says, When he came to Bruxells, the nuncio told him, He had no authority from the court of Rome to make any such proposi-

tion; but did it as a private person, and not by order from the court of Rome: but says, That the nuncio, being then to go to Rome, promised Mr. Coleman to do what service there he could in that business: but says, he hath not held any correspondence with the nuncio this three or four years; nor with any other person, so as to manage an affair: that perhaps might touch upon the business in some letters.

He says, The cypher marked with the provincial's mark, was the cypher betwixt him and St. German; and that he always wrote to the provincial in plain words, and not in cypher; and that there was another cypher betwixt him and Blankart, who was secretary to M. Rovigney; but that was only upon small concerns, and not upon any thing of this nature.

And Mr. Coleman being then asked by the committee, whether he knew of any other sum of money that was proposed or treated on; he answered, that he believed there was money proposed, to keep the king of England from joining with the confederates against France; but does not know of any money paid.

Ordered, That Mr. Richardson, keeper of the prison of Newgate, be forthwith sent for to attend this house.

Mr. Secretary Williamson acquaints the house that in pursuance of the order of the house, the members of this house which are of his majesty's privy council, had attended his majesty: and that his majesty was pleased to signify, that all the papers and writings relating to the plot should be communicated to the house: and that orders were given pursuant to his majesty's command.

Ordered, That the papers relating to the plot now under examination, be delivered to the committee appointed to translate Mr. Coleman's letters: And that col. Birch, sir William Frackland, sir Cyrill Wych, sir Tho. Mompesson, sir John Coventry, lord Clifford, Mr. Devereux, sir John Hanmer, sir John Reresby, sir John Waerden, sir Ed. Mansel, Mr. Hall, lord Allington, sir Rich. Temple, be added to the committee: And they are to meet this afternoon; and to sit *de die in diem*, until they shall have perfected the matters to them referred: And they are impowered to send for persons, papers, and records.

Mr. Richardson, Keeper of the prison of Newgate, being called in, to give an account, What persons have had any communication with Mr. Coleman, since his commitment; he acquainted the house, That there had not been any person admitted to come to, or converse with Mr. Coleman, since his imprisonment, except his servant, to know what he wanted, and his wife, by virtue of an order from the privy council: And that he himself was present whilst she was with him; and that she did not deliver him any thing; and that she was not permitted to discourse to him any thing of news, nor any thing relating to the plot now under examination, besides the committees appointed by each house of parliament to examine him.

HOUSE OF LORDS; October 31.

Whereas William lord Petre stands committed by this house to the Tower of London, for Treason, wherewith he is charged: It is this day ordered, That the constable of the said Tower, his deputy and deputies, do take care that the said lord Petre be kept close prisoner, and not suffered to come to the other prisoners, nor to have the use of pen, ink or paper, till further order.

HOUSE OF COMMONS, November 1.

Resolved, &c. That this house would proceed by way of Impeachment against the lord Arundel of Wardour.

Ordered, That a committee be appointed to prepare and draw up Articles of Impeachment against him.

HOUSE OF LORDS; November 8.

The Lord Treasurer reported, 'That himself and the other lords went yesterday, according to their lordships order, to examine some of the prisoners in the Tower. And the first they had before them was sir John Gage, who owns the examinations which was taken of him, by sir Thomas Stringer, to be upon oath; and that the paper which they shewed him (which was put into their hands by sir Thomas Stringer) was a copy of his said examination. But he denies that he was examined by the Lord Chief Justice; or that he ever received any letter or commission whatsoever from Mr. Oates; or that he knew any thing of any plot against his majesty's service, or against the government.

"Sir William Goring was before them next; who likewise denied any kind of knowledge of those things which he was accused of, or that he knew any such man as Mr. Oates.

"They then sent for the lord Arundel of Wardour; whom they first examined as to his being privy to Mr. Coleman's going to Brussels, to the pope's nuncio; and urged to him, 'That the letters to Coleman, from the nuncio, did give a caution, that none should be trusted with the business, but his royal highness and the lord Arundel.' Yet his lordship did absolutely deny that he knew any thing of the transaction between Coleman and the said nuncio, or of Coleman's errand into Flanders; but said, 'It was likely he took his leave of him before he went.'

"His lordship did own, Coleman was twice with him that day Coleman's papers were seized; that the first time they discoursed of indifferent matters; the last time (which was about six in the evening) Coleman spoke of his papers being seized; and that thereupon his lordship advised him to follow his papers, and render himself.

Being asked, his lordship further declared, 'He never saw Mr. Oates in his life; and that he never was at Mr. Langhorn's chamber but once, and never saw him but that time, and that he never did any business for him;

and that he was so far from having any acquaintance with Mr. Langhorn's sons, that he did not know that Mr. Langhorn was married, until he lately asked the question.' And as for his lordship's receiving any patent, commission, or any power from foreigners, he saith, 'He never did, but hath a patent for count of the empire, and for the place of master of the horse to her late majesty the queen mother; and never had any other.'

"His lordship further declared, 'That he had never any thing to do with any Jesuit; but that he knows most of those that are in prison.'

"The lord Petre was the last that their lordships examined; and they acquainted his lordship with Mr. Oates's deposition against him, "That he had received a commission for lieutenant General, from Mr. Oates, in Mr. Langhorn's chamber, in the presence of Mr. Langworth; and that Mr. Langworth gave his lordship joy thereupon." All which his lordship did utterly deny; or that he knew Mr. Oates, or had ever seen him; or that he ever saw Mr. Langhorn, or was at his chamber, or knew where his chamber was.' His lordship did indeed acknowledge, 'That he knew Langworth; and that he had lately heard that Mr. Oates had been at his house; but that he never heard of his name until Michaelmas eve last, when his lordship's house was searched for Mr. Langworth.'

"And as for his offering any thing to persons that should change to the Romish religion; his lordship doth absolutely disown it: As also that ever he had any commerce with Mr. Coleman about any matter of business.

"This is the sum of what their lordships had to acquaint the house with; besides an humble supplication of the said lords, which they desired their lordships would acquaint the house with, in regard they cannot petition the house, being debarred from the use of pen, ink, and paper; which is, That this house would be pleased to remit their close imprisonment; and that they might be permitted to walk in the Tower, for their health, which is in danger by their present close restraint."

November 23.

Ordered, by the Lords spiritual and temporal in parliament assembled, That the lords committees appointed to examine persons and papers concerning the horrid design against his majesty's person and government be, and are hereby, empowered to peruse all the papers and writings of the earl of Powis, lord Arundel of Wardour, and lord Bellasis; prisoners in the Tower, which, being seized, are now in the custody of the clerk of the parliaments; and to give the House an account thereof.

November 26.

Upon report made by the earl of Essex, from the lords committees appointed to examine persons and papers for the discovery of

the horrid design against his majesty's person and government, "That their lordships have perused all the papers and writings of the earl of Powis, now a prisoner in the Tower; which, being seized, were, by order of this house, brought and delivered into the custody of the clerk of the parliaments; and find not any papers or writings in the least relating to the said horrid design, they being papers merely of private concern:"

It is thereupon ordered, by the Lords spiritual and temporal in parliament assembled, That the said papers and writings may be delivered to the earl of Powis, or such person or persons as his lordship shall appoint to receive the same; and for so doing, this shall be a sufficient warrant.

December 5.

A Message was brought from the House of Commons, by Mr. Wharton, &c.

"That the Commons of England in parliament assembled, having received information of divers traiterous practices and designs of a great peer of this house, Henry lord Arundel of Wardour, have commanded him to impeach the said Henry lord Arundel of Warder, of treason, and other high crimes and misdemeanors; and he did here, in their names, and in the names of all the Commons of England, impeach the said Henry lord Arundell of Warder, of treason, and high crimes and misdemeanors.—They have further commanded him to acquaint your lordships, That they will in convenient time exhibit to your lordships the Articles of the Charge against him."

A Message was brought from the Commons, by Mr. Maynard and others:

"That the Commons of England in parliament assembled, having received information of divers traiterous practices and designs of a great peer of this house, William earl of Powis, have commanded him to impeach the said William earl of Powis of treason, and other high crimes and misdemeanors; and he did here, in their names, and in the names of all the Commons of England, impeach the said William earl of Powis of treason, and high crimes and misdemeanors.—They have further commanded him to acquaint your lordships, That they will within convenient time exhibit to your lordships the articles of the charge against him."

A Message was brought from the Commons, by Mr. Thynn, &c.

"That the Commons of England in parliament assembled, having received information of divers traiterous practices and designs of a great peer of this house, John lord Bellasis, have commanded him to impeach the said John lord Bellasis of treason, and other high crimes and misdemeanors; and he did here, in their names, and in the names of all the Commons of England, impeach the said John lord Bellasis of treason, and high crimes and misdemeanors.—They have further commanded him to acquaint your lordships, That they will within convenient time exhibit

to your lordships the Articles of the Charge against him."

A Message was brought from the Commons, by sir Philip Warwick:

"That the Commons of England in parliament assembled, having received information of divers traiterous practices and designs of a great peer of this house, William lord Petre, have commanded him to impeach the said William lord Petre of treason, and other high crimes and misdemeanors; and he did here, in their names, and in the names of all the Commons of England, impeach the said William lord Petre of treason, and high crimes and misdemeanors.—They have further commanded him to acquaint your lordships, That they will within convenient time exhibit to your lordships the Articles of the Charge against him."

A Message was brought from the Commons, by sir Scroope How, &c.

"That the Commons of England in Parliament assembled, having received information of divers traiterous practices and designs of a great peer of this house, William lord viscount Stafford, have commanded him to impeach the said William lord viscount Stafford of treason, and other high crimes and misdemeanors; and he did here, in their names, and in the names of all the Commons of England, impeach the said William lord viscount Stafford, of treason, and high crimes and misdemeanors.—They have further commanded him to acquaint your lordships, That they will within convenient time exhibit to your lordships the articles of the charge against him."

Ordered, That these Impeachments be taken into consideration to-morrow; and all the Judges to be then present.

December 17.

Upon report made by the earl of Clarendon, from the lords committees for examining persons and papers concerning the horrid design against his majesty's person and government, "That their lordships have perused the papers and writings of the lord Arundel of Warder, which were seized, and by order of this house delivered into the custody of the clerk of the parliaments, and have taken out such of them as may be evidence, in order to the further discovery of the said horrid design; and desiring the directions of the house for the disposal of the remainder thereof:"

It is thereupon ordered, by the Lords spiritual and temporal in parliament assembled, That all such of the lord Arundel of Warder's papers as are only of private concernment may be delivered, by the clerk of the parliaments, to such person or persons as the lord Arundell of Warder shall appoint to receive the same: And this shall be a sufficient warrant on that behalf.

December 26.

PRANCE'S EXAMINATION ABOUT THE PLOT.

The duke of Monmouth, by his majesty's command, communicated to the House, the examinations, of Miles Prance and others,

taken at the council table; which were read as followeth.

"December 24th 1678. Miles Prance a silversmith, being this day examined at large, touching the murder of sir Edmondbury Godfrey, and being upon oath interrogated what he knew concerning the Plot, made answer as followeth:

"That he was at Mr. Ireland's chamber, in Russel Street, some time before Michaelmas; and that, Fenwick and Grove being there present, Ireland said, 'That there would be 50,000 men in arms.' Prance asking, where they would be had, and what to do?' Ireland said, 'We must have them in a short time, to settle religion; or else all would be ruined.'

"That, soon after this, Grove came to his shop, to buy two silver spoons, for a christening where he was to be godfather. Prance asked him, 'What office he should have in the army?' He answered, 'He did not know.' But asking him, 'Who was to govern this army?' He said, 'The lord Powis, the lord Bellasis, lord Petre, and lord Arundel.'

"And further saith, that he was also told by Mr. Fenwick, 'That the lord Powis, lord Bellasis, and lord Arundel, were to command the army.'

"He further saith, that there came to his shop Mr. Le Fevre, to buy a second hand sword; and being asked by him, 'What he meant to do therewith?' He answered, 'He knew not what times they should have.' Prance replied, 'What then shall we poor tradesmen do?' He said, 'That when catholic religion was brought in, it would be better for tradesmen; and particularly there would be more church work for goldsmiths.'

"He further says, that one Mr. Moore, that belongs to the duke of Norfolk, was seen by him riding in the streets on a very brave horse; upon which occasion, meeting him afterwards in the court at Somerset house, and speaking of that brave horse, Moore wished that he had 10,000 of them; and hoped in a short time that they might have them, for the catholic cause.

"That one Lawrence (an apothecary in Drury-lane, over against the end of Queen's street), when the oaths were upon tendering, wished, 'That half the parliament were poisoned; for they would ruin them all.'

"He further said, that he hath heard one Mr. Messenger (that belongs to the lord Arundel), say, 'That he hoped to see the catholic religion flourish here before it be long. And as concerning the Plot, he has no more to say.'

December 28.

The earl of Essex acquainted the House, "That he had received an information out of the country, of very great concernment."

"Staff. ss. The Information of STEPHEN DUGDALE gent. late servant to the lord Aston of Tixhall, concerning the Plot against our sovereign lord the king, as followeth:

"1. This informant saith, that presently,

after one Howard, Almoner to the queen, went beyond the seas, he was told by George Hopson (servant to the said lord Aston), 'That there was a design then intended, for the reformation of the government to the Romish religion.'

"2. He informeth, that, in the beginning of September, 1678, he met in Tixall, nigh the lord's gates, the lord Stafford; who said to this informant, 'It was sad that they were troubled for that they could not say their prayers but in a hid manner: But suddenly there would be a reformation to the Romish religion; and if there was but a good success, they should enjoy their religion.' And, upon the 20th day of September last, the said lord Stafford told this informant, 'That there was a design in hand; and if this informant would undertake the design, he should have a good reward, and make himself famous.'

"3. Upon the aforesaid day, immediately after, this informant went into the chamber of Mr. Francis Vrie alias Evers (a Jesuit), in Tixall hall, and asked him, 'What the lord Stafford meant by those words?' And, after he had made him to swear secrecy upon his knees, he told, 'He might be a person employed in the work, and have a good reward, that would make him famous.' And then he told him, 'He must be instrumental, with others, in taking away the king's life; and that it should be done by shooting, or otherwise; and that this informant need not fear, for the pope had excommunicated the king; and that all that were excommunicated by him were heretics, and they might kill them, and be canonized for saints in so doing.'

"4. This informant saith, that the said Evers and Hopson both said, 'That the design was as well to kill the duke of Monmouth as the king.'

"5. That George North (nephew to Pickering, and servant to the lord Aston) lately told this informant, 'That they had taken his uncle (meaning Pickering), and put him into Newgate; and thought the king deserved such an execrable death as was intended him, because of his whoring and debauchery.'

"6. That Mr. Evers said, 'Mr. Bennyfield had a packet of letters delivered to him from the posthouse, which he feared the lord treasurer had notice of; and therefore he delivered them to the duke of York, and that the duke of York delivered them to the king; and that the king gave them to the treasurer after he had read them; but that the king did not believe them, and therefore it was happy, or else the Plot had been discovered.'

"7. That he had received many packets of letters for Evers; some of which this informant broke up, and found them to be and tend to the establishing of the Romish religion, &c.

"8. That he had received several sums of money himself, and knew of divers others that

were employed to put forth money, which was and is for the Jesuits use.

"STEPHEN DUGDALE."

Taken upon oath, the 24th day of December, 1678, before us,

THO. LANE. J. VERNON.

Ordered, That the earl of Bridgwater and earl of Essex, do immediately go to the Tower and examine the lord viscount Stafford upon this information; and return before the house rises.

December 28.

The earl of Bridgwater and the earl of Essex reported, "That according to the order of this house this morning, they have been with the lord viscount Stafford, in the Tower; and have examined his lordship; who said,

"That he spent some part of this last summer in the country in Shropshire and Staffordshire; some time in August he went to bathe; and from thence came to London about a week after Bartholomewtide; where he staid some days, and then went to Tixall, where he came at or near the 12th September.—His lordship knows Mr. Stephen Dugdale, who he takes to be the lord Aston's bailiff; but absolutely denies the having then, or at any time either before or after, had any discourse with him concerning a design of introducing the Roman religion, or any thing relating thereto.—His lordship also owns to know Mr. Evers, who, as he believes, has lived two or three years in the lord Aston's house; but also denies the having had any discourse with the said Evers concerning the introducing of the Romish religion.—His lordship also knows George Hopson, who waits on the lord Aston in his chamber. North, he takes to be keeper there."

Their lordships further reported, "That the lord viscount Stafford had two desires to present to this House: One, that he may have as speedy a trial as may stand with their lordships conveniency. The other, that there may be a full House of Peers."

March 12, 1679.

The earl of Shaftsbury reported, "That the committee appointed yesterday, to consider in what state the impeachments in the last parliament now stand, have perused the journal of this house; and find that, the 5th day of December 1678, the impeachments against the five lords now prisoners in the Tower were brought from the House of Commons, which consisted of a general charge of Treason and other high crimes; the House of Commons declaring they would in convenient time exhibit the articles of their charge against them.

"The next day, this house appointed to go upon the consideration of these impeachments; and all the judges were appointed to be then present: But nothing was done thereon.

"The lords committees do also find, that an impeachment of high treason, and other high crimes, against Thomas earl of Danby, lord Treasurer, was brought from the House of

Commons, the 23rd day of December, 1678; and the particular Articles then exhibited: and the Commons desired that he might be sequestered from his place in parliament, and committed to safe custody.

"That the Lord Treasurer desired copies of all papers and proceedings concerning this business; and that it was then resolved, upon the question, that the Lord Treasurer should not then withdraw.

"It further appears, that, on the 26th of December, 1678, the Lord Treasurer moved the House, for a copy of his charge, and that he might not lie long under it: whereupon it was moved, that the House would consider of the desire of the House of Commons, concerning his confinement.

"The debate was adjourned.

"It appears that this House, on the 27th of December resolved, That the Lord Treasurer should not now be confined; and ordered, that he should have a copy of the Articles, to which he was appointed to bring in his Answer before the third day of January; and that he might have counsel to assist him."

Upon report made, by the earl of Shaftesbury, from the lords' committees for Examination of the late horrid Conspiracy, concerning the Impeachments brought up from the House of Commons in the last parliament, how they stand entered in the Journal of this House:

It is ordered, That it be, and is hereby, referred to the lords committees for privileges to consider of the state of the said Impeachments, and all the incidents relating thereunto; and to report their opinion thereupon unto this House.

March 17.

Ordered, by the Lords Spiritual and Temporal in parliament assembled, that it be, and is hereby, referred to the lords committees for privileges, to consider, "Whether petitions of appeal, which were presented to this House in the last parliament, be still in force to be proceeded on; as also to consider of the State of the Impeachments brought up from the House of Commons last parliament, and all the incidents relating thereunto;" and make report thereof unto the House.

March 18.

The earl of Essex reported, "That the lords committees for privileges, in obedience to the order of this House, dated the 17th of this instant March, have considered of the matters referred to them, Whether petitions of appeals, which were presented to this house in the last parliament, be still in force to be proceeded in; as also to consider of the State of the Impeachments brought up from the House of Commons last parliament, and all the incidents relating thereunto, and make report thereof unto the house; and their lordships, upon perusal of the judgment of this house of the 29th of March, 1678, are of opinion, that, in all cases of appeals and writs of error, they con-

tinue, and are to be proceeded on, *in statu quo*, as they stood at the dissolution of the last parliament, without beginning *de novo*. The judgment and proceedings being large, are omitted to be repeated; the journal of this House being ready, wherein that judgment is entered.

"And, upon consideration had of the matter referred to their lordships concerning the State of the Impeachments brought up from the House of Commons the last parliament, and all the incidents relating thereunto, their lordships find, that the five lords who are in the Tower are upon general impeachment, and the other lord is impeached with special matter assigned: they refer the House to the report made 12 Martii instant, which states what is entered in the journal of the last parliament concerning this matter. And their lordships are of opinion, that the dissolution of the last parliament doth not alter the State of the Impeachments brought up by the Commons in that parliament."

Ordered, That this report be taken into consideration to-morrow morning, the first business.

March 19.

The House took into consideration the report from the Lords Committees for privileges, "Whether petitions of appeal, which were presented the last parliament, be still in force, to be proceeded on; and concerning the state of impeachments brought up from the House of Commons the last parliament, and all the incidents relating thereunto."

The House proceeded in the Debate aforesaid. And, after some time spent therein, it was desired, "That this question might be put, Whether to agree with the committee in this report?" Then this previous question was put, "Whether this question shall be now put?" And it was resolved in the affirmative. Then the main question was put, "Whether to agree with the committee in this report?" And it was resolved in the affirmative.

The House this day taking into consideration the Report made from the Lords Committees for privileges, "That, in pursuance of the order of the 17th instant, to them directed, for considering whether petitions of appeal, which were presented to this House in the last parliament, be still in force to be proceeded on, and for considering of the state of the impeachments brought up from the House of Commons the last parliament, and all the incidents relating thereunto; upon which the Lords Committees were of opinion, That, in all cases of appeals and writs of error, they continue, and are to be proceeded on, *in statu quo*, as they stood at the dissolution of the last parliament, without beginning *de novo*; and that the dissolution of the last parliament doth not alter the state of the impeachments brought up by the Commons in that parliament."

After some time spent in consideration thereof;

It is Resolved, by the Lords Spiritual and Temporal in parliament assembled, That this House agrees with the Lords Committees in the port.

March 20.

The lord bishop of Bath and Wells reported from the Lords Committees for examining matters relating to the discovery of the late horrid Conspiracy, the Examination of Miles Prance, which was read as follows :

“ Midd. ss. et Lib. Westm.

“ The Examination of MILES PRANCE, Silver-smith, taken upon oath, the 19th day of March, 1678, before the marquis of Winchester, one of his majesty's Justices of Peace for the said county and liberty.

“ This examinant saith, That he, and Mr. Maddison a barber in Holborne, and Mr. Staley, were drinking at the Cross Keys Tavern over-against Staley's house about a fortnight before the said Staley was taken; where, complaining of the great persecution that the papists lay under, and that if they did not take some speedy course to destroy their enemies, they should be ruined, the said Staley and Maddison resolved to kill the earl of Shaftesbury, as the ringleader of the mischief that they feared would fall upon them; Maddison saying, ‘ That he would engage three, (*videlicet*,) ‘ Adamson a watchmaker, Prosser a siversmith, ‘ and Bradshaw an upholsterer.’ And the said Maddison coming afterwards to the deponent's shop, shewed the deponent a pistol he had prepared for that purpose.

“ This deponent further saith, That meeting with Adamson at Pettie's, at The White Post in Vere Street, and discoursing of news, Adamson said, ‘ That they should all be undone, if ‘ they did not look about them; therefore they ‘ were resolved to kill the lord Shaftesbury;’ he also speaking the same thing to the deponent at The Gridiron in Holborne.

“ This deponent likewise saith, That Prosser told him, ‘ That he was undone; and he intended to kill the lord Shaftesbury; for he, with ‘ other of the Lords, intended to undo the lord ‘ Arundel, who was his very good customer.’ The said Prosser telling the deponent at another time, ‘ That he was to be an ensign under the ‘ said lord Arundel.’

“ This deponent also saith, That Bradshaw, in discourse with him, said, ‘ That he would ‘ make no more to kill a Protestant, than to ‘ kill a dog or a cat; and that he was resolved ‘ to kill some of the busy lords; but the first ‘ should be the lord Shaftesbury.’ And the said Prosser shewed the deponent a pistol at the same time.

“ This deponent further saith, That he the deponent, Mr. Messenger, Prosser, and Maddison, were at Bradlies, in Holborne, about five weeks before Staley was taken; where the said Messenger much complaining of the severity of the laws that were against the papists, and much fearing that they would be put in execution against them by some that were no

lovers of them, and particularly the lord Shaftesbury, who did most busy himself about them; said, ‘ That there must be speedy course taken to prevent it.’

“ And this deponent saith, That, some time after this, the said Prosser told him, ‘ That the ‘ said Messenger was the person that promoted ‘ the killing the lord Shaftesbury.’

“ The deponent further saith, That Mr. Goseen told him, both in Covent Garden and in the deponent's shop, ‘ That the king and ‘ parliament would undo them; and if he ‘ were to kill a man, he would kill the king as ‘ soon as any man; and if he had him in France, ‘ he would have killed him before this.’

“ This deponent further saith, That, about six months since, he heard Mr. Mathews, the lord Petre's priest, say, ‘ That his lord and the ‘ lord Bellasis, with some other lords, would ‘ have a good army; and that he hoped the ‘ catholic religion would be settled in England.’

“ This deponent further saith, That, about a year since, he heard Mr. Singleton, a priest, say in the presence of Mr. Hall, ‘ That he ‘ hoped he should be settled in a parish church ‘ before a twelvemonth; and that he did not ‘ fear but that the catholic religion would reign ‘ in England; and that he would not make any ‘ more matter in stabbing 40 parliament men, ‘ than to eat his dinner.’

“ The deponent saith, That he hath also heard Mr. Byfleet and Dr. Guilding say, several times, ‘ That they turned divers people ‘ from the protestant religion to the catholic ‘ religion; and they hoped they should turn ‘ many more.’

“ The deponent also believes, that the said Hall knows where the said Singleton, Byfleet, and Guilding are; for that they used to be always at Hall's house, and the said Hall always received the money for the said Singleton, which was to be distributed for masses for the dead.

“ This deponent further saith, That Mr. Groves told him, ‘ That this was no plot, but a ‘ plot of the Protestants' own making.’ And when his uncle was condemned, he said, ‘ That ‘ they were all rogues that swore against him.’ The deponent then asking him, ‘ What he ‘ thought of the 5,000 men which he knew ‘ were to be raised?’ The said Groves replied, ‘ That might be in jest.’

“ The deponent further saith, That Mr. Ridley, a chirurgeon at the lord Baltimore's house in Wild-street, told him several times, ‘ That ‘ he hoped to be chirurgeon to the Catholic ‘ army in England; and that the lord Bellasis ‘ would much stand his friend in the concern.

“ This deponent further saith, That the lord Arundel of Warder's Butler told him, ‘ That ‘ Mr. Messenger was to kill the king, and that ‘ he was to have a good reward if he saved his ‘ life; and if he were killed, the said reward ‘ should be distributed amongst such friends as ‘ he should appoint, by the lord Arundel, the ‘ earl Powis, and the rest of the lords that were ‘ in the same Plot.’

"The deponent further saith, That, meeting with Mr. Messenger after that, he asked the said Messenger, 'Why he would kill the king?' The said Messenger answered, 'Who told you of it?' The deponent saying, 'Your butler told me;' the said Messenger replied, 'We are off that thing now;' therefore desired me not to speak of it to any body. Afterwards the said Butler came to the deponent's shop, and told the deponent, 'That he had received great anger, in that he had told the deponent of what Messenger was to attempt.'

"This deponent further saith, That, somewhat above half a year since, he heard Mr. Wallston Paston say, 'That young sir Henry Beddingfield, of Oxburrough Hall, in Norfolk, was to have a commission from my lord Arundel, for a troop of horse in the army to be raised by the Papists.' MILES PRANCE."

'Capt. et jurat. coram me, 19 Martii, 1678.'

WINCHESTER.

March 22.

The earl of Clarendon reported, from the Committee of Examinations, an Information of Miles Prance; which was read, as follows:

"In the month of August, 1678, I having occasion to write to a friend in the country, but not well knowing how to send, I went to Mr. Paston, who lodged at one Bamber's, a tailor, in Duke-street, who gave me an account where to send to him; and we immediately fell into discourse concerning the present posture of affairs, and he bid me, 'Not fear; for we should suddenly have better times; for, in the first place, he said, that the king was a great heretic; and that the lord Bellasis, and lord Arundel, and lord Powis, and lord Peters, would have a very good army for the deposing of the king, and the suppression of all the heretics; and then the Catholic religion should be established and flourish in this nation.' He also said, 'That the above named lords had given out commissions already to some gentlemen in the country, whom he named to me; that was, to one Mr. Talbot of Longford, and to sir Henry Bennet of Oxberrow Hall, in Norfolk, and one Mr. Stoner, who lives within 4 or 5 miles of Kingston upon Thames.'

"Also, about two years ago, one Townly, of Townly in Lancashire, came up to London with his two sons that he was carrying over to Doway. He also brought along with him his two brothers, to keep him company; and they took lodgings at one Ayrie's house in Drury-Lane, where Phenwick lodged, and in a short time two of them went over to Doway with the two lads; and left the other here, who, in the absence of his brothers, declared very often to my wife's brother and to Adamson, 'That, when his brothers came back again from Doway, they expected commissions from the above named lords, for the raising of men to carry on the Catholic cause.' This my brother and Adamson often told me at Pettley's in Vere-street, where we had a club very often of none but Papists. MILES PRANCE."

VOL. VII.

"Also, about the time that the four lords were in the Tower, that is, the duke of Buckingham, my lord Shaftesbury, and lord Wharton, and lord Salisbury, that one Mr. Kightly came to me, and greatly rejoicing at their imprisonment; said, 'That now is the time for the promoting of Catholic religion, because of the difference that was amongst the lords; and that, if the duke of York did but follow the business closely, which the Catholics had ground to believe he would, they did not doubt but that it would be settled at that present juncture of time.' MILES PRANCE."

March 27.

The earl of Bridgwater acquainted the House, "That, when he and the earl of Clarendon and the earl of Essex were at the Tower, the lord Bellasis and the lord viscount Stafford desired their lordships to represent their desires to his majesty, That they may have liberty for persons to come to them upon their occasions; and their lordships moving his majesty herein, he leaves it to this House to consider of it."

Hereupon the House made this Order following:

"It being represented to this House, That the lord viscount Stafford and the lord Bellasis, now prisoners in the Tower, do humbly desire that they may have the liberty of persons coming to them, for preparing themselves for their defence, and ordering their own affairs: Upon consideration had thereof, it is ordered, by the Lords Spiritual and temporal in parliament assembled, That the lord viscount Stafford and lord Bellasis, and the other Lords prisoners in the Tower, shall have the benefit of the access of such persons to them, or any of them, as may be useful to them for the purposes aforesaid, so as the said Lords do cause lists of the names of such persons as are from time to time so to be made use of by them respectively, to be forthwith brought into this House."

April 1.

This day Benedict Prosser was brought to the bar; and Miles Prance, being called in, charged Prosser, "That he came to his shop, and said, 'That he was undone; and that he did intend to kill the lord Shaftesbury, for he with other of the Lords did intend to undo the lord Arundel, who was his very good customer.' And the said Prosser also told him, at Bradley's in Holborn, 'That he was to be an ensign under the lord Arundel.'"

Miles Prance further said, "That he and Mr. Messenger, and Prosser, and Mattison, were at Bradley's in Holborn, about five weeks before Staley was taken; and Messenger much complaining of the severity of the laws that were against the catholics, and much fearing they would be put in execution against them by some that were not lovers of the catholics, and particularly the lord Shaftesbury, who did most busy himself about them, and therefore he said, 'That there must be speedy course taken to prevent it;'

4 K

and that, after their meeting at the Cross Keys, by Staley's, he met with Prosser at Bradley's, where he told him, That Messenger was the person that promoted the killing of the lord Shaftsbury."

Hereupon the House made the Order following:

"Whereas Benedict Prosser was this day brought to the bar by the Gentleman Usher of the Black Rod attending this House, and was there charged upon oath with matters amounting to high-treason: It is ordered, by the Lords spiritual and temporal in parliament assembled, That the said Benedict Prosser be forthwith conveyed to the prison of Newgate, by the said gentleman usher or his deputy or deputies, there to remain in safe custody till he shall be discharged by due course of law; and that the keeper of Newgate take care that no person be admitted to the said Benedict Prosser except his wife, till further order; and this shall be a sufficient warrant on that behalf.

"To the Gentleman Usher of the Black Rod attending this House, and to the keeper of Newgate, and their respective deputies, and every of them."

April 7.

A Message was brought from the House of Commons by the lord Russel and others; who was commanded, by the House of Commons, to bring up Articles of Impeachment of High-Treason, and other high crimes and offences, against William earl of Powys, William viscount Stafford, Henry lord Arundel of Wardour, William lord Petre, and John lord Bellasis, now prisoners in the Tower of London.

The said Articles were read, as followeth:

ARTICLES OF IMPEACHMENT, of High Treason, and other high crimes and offences, against WILLIAM earl of POWIS, WILLIAM viscount STAFFORD, HENRY lord ARUNDEL of WARDOUR, WILLIAM lord PETRE and JOHN lord BELLASIS, now prisoners in the Tower of London.

"That, for many years now last past, there hath been contrived and carried on, by papists, a traiterous and execrable Conspiracy and Plot, within this kingdom of England and other places, to alter, change and subvert the ancient government and laws of this kingdom and nation, and to suppress the true religion therein established, and to extirpate and destroy the professors thereof; which said Plot and Conspiracy was contrived and carried on in divers places, and by several ways and means, and by a great number of persons of several qualities and degrees, who acted therein, and intended thereby to execute and accomplish the aforesaid wicked and traiterous designs and purposes.

"That the said William earl of Powys, William viscount Stafford, Henry lord Arundel of Wardour, William lord Petre, and John lord Bellasis, together with Philip Howard, commonly called cardinal of Norfolk, Thomas

White, alias Whitebread commonly called provincial of the Jesuits in England, Richard Strange, lately called provincial of the Jesuits in England, — Vincent commonly called the provincial of the Dominicans in England, James Corker, commonly called president of the Benedictines, sir John Warner, alias Clare, baronet, William Harcourt, John Keins, Nicholas Blundel, — Pole, Edward Mico, Thomas Bedingfield, alias Benefield, Basill Langworth, Charles Peters, Richard Peters, John Connyers, sir George Wakeman, Thomas Fenwick, Dominick Kelly, — Fitzgerald, — Evers, sir Thomas Preston, William Lovell, Jesuits, lord Baltemore, John Carrell, John Townley, Richard Langhorn, William Fogarty, Thomas Penny, Mathew Medbourne, Edward Coleman, William Ireland, John Grove, Thomas Pickering, John Smith, and divers other Jesuits, priests, friars and other persons, as false traitors to his majesty and this kingdom, within the time aforesaid, have traiterously consulted, contrived, and acted, to and for the accomplishing of the said wicked pernicious, and traiterous designs; and, for that end, did most wickedly and traiterously agree, conspire, and resolve, to imprison, depose, and murder, his sacred majesty, and to deprive him of his royal state, crown and dignity; and, by malicious and advised speaking, writing and otherwise, declared such their purposes and intentions; also to subject this kingdom and nation to the pope and his tyrannical government; and to seize and share amongst themselves the estates and inheritances of his majesty's Protestant subjects; and to erect and restore abbies, monasteries, and other convents and societies, which have been long since by the laws of this kingdom suppressed, for their superstition and idolatry; and to deliver up and restore to them the lands and possessions now vested in his majesty and his subjects by the laws and statutes of this realm; and also to found and erect new monasteries and convents, and to remove and deprive all Protestant bishops, and other ecclesiastical persons, from their offices, benefices, and preferments, and by this means to destroy his majesty's person, extirpate the Protestant religion, overthrow the rights, liberties, and properties of all his majesty's good subjects, subvert the lawful government of this kingdom, and subject the same to the tyranny of the see of Rome.

"That the said conspirators and their complices and confederates, traiterously had and held several meetings, assemblies, and consultations, wherein it was contrived and designed among them what means should be used, and what persons and instruments should be employed, to murder his majesty; and did then and there resolve to effect it by poisoning, shooting, stabbing, or some such like ways and means, and offered rewards and promises of advantage to several persons to execute the same; and hired and employed several wicked persons, to go to Windsor and other places, where his

majesty did reside, to murder and destroy his majesty; which said persons, or some of them, accepted such rewards, and undertook the perpetrating thereof, and did actually go to the said places for that end and purpose.

“ That the said conspirators, the better to compass their traiterous designs, have consulted to raise, and have procured and raised, men, money, horses, arms, and ammunition, and also have made application to, and treated and corresponded with, the pope, his cardinals, nuncios, and agents, and with other foreign ministers and persons, to raise and obtain supplies of men, money, arms, and ammunition, therewith to make, levy, and raise war, rebellion, and tumults, within this kingdom, and to invade the same with foreign forces, and to surprise, seize, and destroy, his majesty's navy, forts, magazines, and places of strength, within this kingdom; whereupon the calamities of war, murders of innocent subjects, men, women, and children, burnings, rapines, devastations, and other dreadful miseries and mischiefs, must inevitably have ensued, to the ruin and destruction of this nation.

“ And the said conspirators have procured and accepted, and delivered out, several instruments, commissions, and powers, made or granted by or under the pope, or other unlawful and usurped authority, to raise and dispose of men, monies, arms, and other things necessary for their wicked and traiterous designs; and namely, a commission for the said Henry lord Arundell of Wardour, to be lord chancellor of England; another commission to the said William earl of Powys, to be lord treasurer of England; another commission to the said John lord Bellasis, to be general of the army to be raised; another commission to the said William lord Petre, to be lieutenant general of the said army; and a power for the said William viscount Stafford, to be paymaster of the army.

“ That, in order to encourage themselves in prosecuting their said wicked plots, conspiracies, and treasons, and to hide and hinder the discovery of the same, and to secure themselves from justice and punishment, the conspirators aforesaid, their complices and confederates, have used many wicked and diabolical practices; viz. they did cause their priests to administer to the said conspirators an oath of secrecy, together with their sacrament; and also did cause their said priests, upon confessions, to give their absolutions upon condition that they should conceal the said conspiracy; and when, about the month of September last, sir Edmond Godfrey, a justice of peace, had, according to the duty of his oath and office, taken several examinations and informations concerning the said conspiracy and plot, the said conspirators, or some of them, by advice, assent, counsel, and instigation of the rest, did incite and procure divers persons to lie in wait and pursue the said sir Edmond Godfrey divers days with intent to murder him, which at last was perpetrated and effected by

them; for which said horrid crimes and offences, Robert Green, Henry Berry, and Lawrence Hill, have since been attainted, and Dominick Kelly, and — Giraldo, and others, are fled for the same; after which murder, and before the body was found, or the murder known, to any but the accomplices therein, the said persons falsely gave out that he was alive, and privately married; and, after the body found, dispersed a false and malicious report that he had murdered himself; which said murder was committed with design to stifle and suppress the evidence he had taken and had knowledge of, and discourage and deter magistrates and others from acting in further discovery of the said conspiracy and plot; for which end also the said sir Edmond Godfrey, while he was alive, was, by them, their accomplices and favourers, threatened and discouraged in his proceedings about the same; and, of their further malice, they have wickedly contrived, by many false suggestions, to lay the imputation and guilt of the aforesaid horrid and detestable crimes upon the protestants, that so thereby they might escape the punishments they have justly deserved, and expose the protestants to great scandal, and subject them to persecution and oppression in all kingdoms and countries where the Romish religion is received and professed.

“ All which treasons, crimes and offences, above-mentioned, were contrived, committed, perpetrated, acted and done, by the said William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis, and other the conspirators aforesaid, against our sovereign lord the king, his crown and dignity, and against the laws and statutes of this kingdom.

“ Of all which treasons, crimes, and offences, the knights, citizens, and burgesses, in parliament assembled, do, in the name of themselves and of all the Commons of England, impeach the said William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis, and every of them.

“ And the said Commons by protestation, saving to themselves the liberty of exhibiting at any time hereafter any other accusations or impeachments against the said William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis, and every of them, and also of replying to the answers which they and every of them shall make to the premises or any of them, or to any other accusation or impeachment which shall be by them exhibited (as the cause according to course and proceedings of parliament shall require), do pray, that the said William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis, and every of them, be put to answer all and every of the premises; and that such proceedings, examinations, trials, and judgments, may

he upon them and every of them had and used, as shall be agreeable to law and justice, and course of parliament."

Ordered, by the Lords spiritual and temporal in parliament assembled, That the Lords' committees for privileges do meet this afternoon, to consider of the method and progress of the proceedings to be had upon the Trials of the Lords now prisoners in the Tower, upon the impeachments brought up against them from the House of Commons; and that the Lord Chief Justice of the Court of Common Pleas, Mr. Baron Thurland, and his majesty's Attorney General, do attend their lordships this afternoon, in the House of Peers.

April 8.

The earl of Shaftesbury reported, from the Lords' committees for privileges, to whom was referred to consider of the method and progress of the proceedings to be had upon the trials of the lords now prisoners in the Tower, upon the impeachments brought up against them from the House of Commons,

"That their lordships are of opinion, that the lords now prisoners in the Tower ought to be brought to the bar together, and kneel there; and then stand up, and hear the articles of the charge against them read.—That the said lords may have counsel, to plead for them in matter of law, but not in matter of fact.—That such counsel as the said lords shall name to the House, shall have free liberty of access to their lordships, in order to their trials.—That the said lords shall have free liberty of any person coming to them, so as the Lieutenant do give this House an account next morning of such persons as have been with them the day before, if the House do then sit; otherwise to give the said account to one of the secretaries of state, and after to the House at their next sitting.—That in regard that, in cases of impeachments in parliament, the Lord High Steward, or Lord Steward of the Household, being of right to supply the place of Speaker in the House of Peers, an humble address may be made to his majesty, That he will be pleased to appoint a Lord High Steward, to supply the place of Speaker of the House of Peers, during the time of the said trial."

This Report was read, and agreed to.

Whereas William earl of Powis, William lord viscount Stafford, William lord Petre, Henry lord Arundell of Warder, and John lord Bellasis, now prisoners in the Tower of London, are impeached of High Treason, &c. by the Commons in parliament assembled, who have brought into this House particular articles against them:

It is this day ordered, by the Lords spiritual and temporal in parliament assembled, That the Lieutenant of the said Tower be, and is hereby, required to bring the said earl of Powis, lord viscount Stafford, lord Petre, lord Arundell of Warder, and lord Bellasis, in safe custody, to the bar of this house to-morrow, at 10 of the

clock in the forenoon, to hear the said articles wherewith they stand charged read unto them; and for so doing, this shall be his sufficient warrant.

Ordered, by the Lords spiritual and temporal in parliament assembled, That the earl of Bedford, earl of Bridgewater, and earl of Aylesbury do attend his majesty, humbly to desire him, from this House, "That in regard that, in cases of impeachments in parliament, the lord high steward, or lord steward of the household, being of right to supply the place of Speaker in the House of Peers, his majesty will be pleased to appoint a lord high steward to supply the place of Speaker of the House of Peers, during the time of the trials of the lords now prisoners in the Tower, upon their Impeachments."

Whereas William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundell of Warder, and John lord Bellasis, now prisoners in the Tower of London, being impeached by the House of Commons of high treason, are to make their respective defences upon their trials:

It is this day ordered, by the Lords spiritual and temporal in parliament assembled, That the said lords may have counsel to plead for them, in matter of law, but not in matter of fact; and that such counsel as the said lords shall name to this House shall have free liberty of access to their lordships, in order to their trials; as also any other persons to come to them, so as the lieutenant of the Tower do give this House an account next morning of such persons as have been with them respectively the day before, if the House do then sit; otherwise he is to give the said account to one of the secretaries of state, and after to the House at their next sitting.

The earl of Bedford reported, "That himself and the other lords, who were appointed to attend his majesty with the humble Address of this House, to desire his majesty, He would be pleased to appoint a Lord High Steward, to supply the place of Speaker of the House of Peers, during the time of the trials of the lords now prisoners in the Tower, upon their impeachments, had attended his majesty: And his majesty gives this answer, That he will speedily give order for a commission for a Lord High Steward, as is desired."

April 9.

The question being put, "Whether, when the Lords come to the bar, the doors shall be left open?" It was resolved in the negative.

This day being appointed for William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundell of Wardour, and John lord Bellasis, prisoners in the Tower, to be brought to the bar, to hear the Articles of Impeachment of High-Treason, wherewith they are charged by the House of Commons, read unto them; the gentleman usher of the black rod was commanded to call for them in.

Upon which, the said earl of Powis, viscount

Stafford, lord Petre, and lord Arundell of Wardour, were brought to the bar, by the lieutenant of the Tower; where they kneeled, till the Lord Chancellor bid them stand up.

Then, by command of the house, the said Articles of Impeachment were read unto them.

After which, the Lord Chancellor asking them, what they had to say for themselves (letting them know that his majesty would appoint a Lord High Steward for their trials;) the said lords made several requests unto the House, in order to their answering the said charge, and making their defences upon their trials.

Which requests (the said lords being withdrawn) the House took into consideration.

And, after some time spent therein, the said lords were called to the bar again; and the Lord Chancellor did let their lordships know, "That the House had considered of their requests; and had ordered that the several indictments found against them, the said earl of Powis, viscount Stafford, lord Petre, lord Arundell of Wardour, and lord Bellasis, by the grand jury, shall be brought into this Court by Writ of Certiorari; and that their lordships may have copies of the said Articles of Impeachment; and shall have time given them, till Tuesday the 15th day of this instant April, to send in their respective answers thereunto, with further time to answer to any new Articles that shall be brought up against them; and shall have liberty to search and take out copies of Records and Journals, in order to their defence; and that their lordships shall have summons issued for such witnesses as they shall respectively send in the names of, to be by them made use of at their trials; which witnesses shall have the protection of this House, for their safe coming and going, during the time of the said trials; and that their lordships shall have those persons assigned to them for counsel, in order to their defences upon their trials, whom they have respectively named to this House; and lastly, that all the peers shall be summoned, to the end there may be a full House at the said trials."

Then, notice being taken by the House, that the lord Bellasis had not appeared at the bar; Thomas Plessington and Robert Dent, being sworn at the bar, attested, "That the lord Bellasis is at this present so ill and lame with the gout, that he is not able to stir out of his bed, nor to turn himself in his bed without help."

Which reasonable excuse the House allowing of; the said Thomas Plessington, on behalf of the lord Bellasis, desired, "That his lordship might have a copy of the Articles; and that counsel (whom he named) might be assigned to him."

Which, with the other requests made by the lords who appeared, were equally condescended to, for the lord Bellasis, as for the other four lords.

Then the House made the Order following:

"Whereas William earl of Powis, William

viscount Stafford, William lord Petre, and Henry lord Arundel of Wardour, have appeared this day at the bar, to hear the Articles read; whereby they, together with John lord Bellasis, are charged upon impeachment of high treason: It is ordered, That the said William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel, and John lord Bellasis, shall stand committed to the Tower of London, there to be kept in safe custody, in order to their trials; having the same liberty of access of persons to them as they had before this day; and this shall be a sufficient warrant on that behalf.

"To the Lieutenant of the Tower of London, his deputy and deputies, and every of them."

Ordered, by the Lords spiritual and temporal in parliament assembled, That his majesty's Writ of Certiorari be issued, returnable into the House of Peers in parliament assembled, for bringing into this court the several indictments, with all things thereunto belonging, whereby William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis, are found guilty of high treason.

It is this day ordered, by the Lords spiritual and temporal in parliament assembled, That Mr. Saunders and Mr. Holt, counsellors at law, be, and are hereby, assigned to be of counsel, with William earl of Powis, now prisoner in the Tower, in order to his defence upon his trial, upon the impeachment of the House of Commons, whereby he is charged with high treason; and that they, the said Saunders and Mr. Holt, may have free access to the said earl of Powis, from time to time, for that purpose.

William viscount Stafford; the like Order for Mr. Saunders, and Mr. Anthony Keck.

William lord Petre; the like Order for Serj. Raymond, Mr. Wallop, Mr. Saunders, and Mr. Bradbury.

Henry lord Arundel of Wardour; the like Order for Mr. Saunders, Mr. Pollexfen, and Mr. Holt.

John lord Bellasis; the like Order for sir Thomas Skipwith, and Mr. Saunders.

Forasmuch as several Peers are upon their trials for their lives, and that it is the duty of the whole body of the Peers to attend that service: It is therefore this day ordered, by the Lords spiritual and temporal in parliament assembled, That the Lord Chancellor do write letters to every Peer now absent, and able to travel without danger of life, forthwith to come to town, and remain here, attending the service of this House, until the said trials be over; intimating to them therein, "That, if they shall not attend the service of this House according to summons, this House will send a serjeant at arms, to bring them up in custody."

This House being moved, "That the lord Petre, prisoner in the Tower, who hath appeared at the bar this day, may have leave to see his lady, now lying-in:"

It is ordered, by the Lords spiritual and temporal in parliament assembled, That the said lord Petre, attended by the Lieutenant of the Tower, and such guards as he thinks fit, be, and is hereby, authorised and permitted to call and see his lady, now lying-in, in his return to the Tower.

April 12.

The House took into consideration, "Whether to revoke the Order made for the lords in the Tower to have liberty of having copies out of the Journals of this House, to be made use of for their defence at their trials."

The opinion of the Lord Chief Justice of the Common Pleas, Baron Thurland, and Mr. Attorney General, was required upon this case :

"Whether, in inferior courts, a prisoner that stands in question for his life may be denied copies of any entries upon Record for his defence?"

And their unanimous opinion is, "That no prisoner indicted for any capital offence in the King's Bench, can have a copy of the indictment, without order of the court.

"That such a prisoner cannot of right demand copies of informations of witnesses against him."

The House came to no resolution herein.

It is this day ordered, That Mr. Henry Lawson be, and is hereby, assigned to be solicitor for the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasis, now prisoners in the Tower, upon their lordships request for that purpose, to look after and manage such matters as may concern them, or any of them, in order to their trials; and that the said Henry Lawson may, from time to time, till the said trials shall be over, have free liberty of access to their lordships, or any of them, for that purpose.

Ordered, That Mr. Thompson is assigned counsel for the lord Bellasis, and Mr. Hunt for the lord viscount Stafford.

April 15.

This day being appointed for the lords prisoners in the Tower to put in their Answers to the Articles of Impeachment of the House of Commons against them; which being called for, and not come :

It is ordered, by the Lords spiritual and temporal in parliament assembled, That the earl of Powis, lord viscount Stafford, lord Petre, and lord Arundel of Wardour, be brought to the bar of this House to-morrow morning, at eleven o'clock, by the Lieutenant of the Tower, to put in their respective Answers to the said Articles of Impeachment: And this shall be a sufficient warrant on that behalf.

It was moved, "That the lord Bellasis's Answer might be received now, in regard of his lordship's sickness."

Which the House received, and read, as followeth :

LORD BELLASIS'S ANSWER TO HIS IMPEACHMENT.

"The several Plea of John lord Bellasis, now prisoner in the Tower of London, to part, and his several Answer to the residue, of the Articles of Impeachment of High Treason, and other Crimes and Offences, exhibited to the Lords Spiritual and Temporal in Parliament assembled, against the said Lord, and others therein named, whereof the said Lord stands impeached, by the Knights, Citizens, and Burgesses in Parliament assembled, in the name of themselves and of all the Commons of England.

"The said lord, in the first place, and before all others, protesting his innocence of and from all the treasons, and other crimes and offences whatsoever, in the said articles contained, and no way acknowledging, confessing, granting, or admitting, all or any the clauses, articles, or matters, in the said articles of impeachment contained or specified, so far as the same any way concerns him, to be true, as in and by the same articles of impeachment is supposed; and humbly praying a favourable construction by this most honourable House of what the said lord shall humbly offer, by way of plea, to such part of the impeachment as is hereunder mentioned, and that the same may not be taken or construed as any subterfuge or evasion of the justice of this most honourable House, to which the said lord doth, with all humility, wholly submit himself; desiring above all things the trial of his cause by this most honourable House, so that he may be provided to make his just defence, for the clearing of his innocence from the great and heinous crimes charged upon him by the said impeachment: This being prayed, as also liberty to correct, amend, or explain, any thing in this his plea and answer contained, which may any way give this honourable House any occasion of offence; and, he hopeth, being granted; the said lord, as to that part of the impeachment which containeth the matter following; namely, 'That, for many years now last past, there hath been contrived and carried on, by Papists, a traiterous and execrable conspiracy and plot, within this kingdom of England and other places, to alter, change, and subvert, the ancient government and laws of this kingdom and nation, and to suppress the true religion therein established, and to extirpate and destroy the professors thereof; and that the said plot and conspiracy was contrived and carried on, in divers places, and by several ways and means, and by a great number of persons of several qualities and degrees, who acted therein, and intended thereby to execute and accomplish their aforesaid wicked and traiterous designs and purposes; that the said John lord Bellasis, and the other lords therein named, together with several other persons therein likewise named or mentioned, as false traitors to his

‘ majesty and this kingdom, within the time
 ‘ aforesaid, have traiterously consulted, con-
 ‘ trived, and acted, to and for the accomplish-
 ‘ ing the said wicked, pernicious, and traiter-
 ‘ ous designs; and, for that end, did most
 ‘ wickedly and traiterously agree, conspire, and
 ‘ resolve, to imprison, depose, and murder, his
 ‘ sacred majesty, and to deprive him of his
 ‘ royal estate, crown, and dignity; and, by
 ‘ malicious and advised speaking, writing, and
 ‘ otherwise declaring, such their purposes and
 ‘ intentions; and also to subject this kingdom
 ‘ and nation to the pope, and to his tyrannical
 ‘ government; and to seize and share amongst
 ‘ themselves the estates and inheritances of his
 ‘ majesty’s Protestant subjects; and to erect
 ‘ and restore abbies, monasteries, and other
 ‘ convents and societies, which have been long
 ‘ since, by the laws of this kingdom, suppressed,
 ‘ for their superstition and idolatry; and to
 ‘ deliver up and restore to them the lands and
 ‘ possessions now vested in his majesty and his
 ‘ subjects by the laws and statutes of this realm,
 ‘ and also to found and erect new monasteries
 ‘ and convents; and to remove and deprive all
 ‘ Protestant bishops, and other ecclesiastical
 ‘ persons, from their offices, benefices, and pre-
 ‘ ferments; and by this means to destroy his
 ‘ majesty’s person, extirpate the Protestant re-
 ‘ ligion, overthrow the rights, liberties, and pro-
 ‘ perties, of all his majesty’s good subjects, sub-
 ‘ vert the lawful government of this kingdom,
 ‘ and subject the same to the tyranny of the
 ‘ see of Rome; and that the said conspirators,
 ‘ and their accomplices and confederates, trait-
 ‘ terously had and held several meetings, as-
 ‘ semblies, and consultations, wherein it was
 ‘ contrived and designed amongst them, what
 ‘ means should be used, and what persons and
 ‘ instruments should be employed, to murder
 ‘ his majesty; and did then and there resolve
 ‘ to effect it by poisoning, shooting, stabbing,
 ‘ or some such like ways and means;’ and also
 to that part of the Impeachment which charg-
 eth, ‘ That the said lord Bellasis, and the other
 ‘ persons in the said Impeachment named, the
 ‘ better to compass their traiterous designs,
 ‘ have consulted to raise men, money, horses,
 ‘ arms, and ammunition;’ the said lord, saving
 to himself the liberty of answering over and
 denying all and singular the said crimes and
 offences charged upon him, saith, and humbly
 offereth to this most honourable House, that
 the charge of those crimes and offences, so im-
 posed upon him by the said Impeachment, is
 so general and uncertain, that he cannot by any
 possibility give any direct answer thereto, nor
 make his just and lawful defence upon any
 trial of the same; for that the said charge hath
 no manner of certainty in point of time, it be-
 ing said only, ‘ for many years now last past, a
 ‘ traitorous and execrable Plot and Conspiracy
 ‘ hath been contrived and carried on;’ which
 may be for 5, 10, 20, or 30, or more years
 past; whereby, although the said lord know-
 eth himself to be altogether innocent of any
 such horrid and detestable crimes as by the

said Impeachment are objected against him,
 yet it is no way possible for him, upon any trial
 thereof, to be prepared with his just and lawful
 defence, by witnesses, to prove himself absent
 and in another place at the time of such meet-
 ing or consultation to or for any the wicked de-
 signs and purposes in the said impeachment
 mentioned, as upon his trial may be suddenly
 objected against him, when he cannot by any
 care or foresight whatsoever have such wit-
 nesses ready as could disprove the same, if
 he were certainly charged for any traiterous
 act or crime at any time certainly alledged in
 the said impeachment; nor is the same charge
 in the said impeachment more certain as to
 the place of any such traiterous meeting or
 consultation laid down in the said impeach-
 ment, it being only alleged to be ‘ at divers
 ‘ places within the realm of England and else-
 ‘ where;’ which, for the causes aforesaid, is
 likewise so utterly uncertain, that it deprives
 the said lord of his just defence upon his trial:
 The uncertainty likewise of the number of
 meetings or consultations to the wicked pur-
 poses in the impeachment mentioned, and the
 not shewing how many times the said lord met
 and consulted, and with whom in particular,
 doth likewise deprive him of all possibility of
 making his defence, or producing his witnesses;
 for that the said lord Bellasis, being wholly in-
 nocent, cannot suppose or imagine what meet-
 ing or consultation, either to raise men or mo-
 ney, for the carrying on of a traiterous design,
 or to any other wicked intent or purpose in the
 said impeachment mentioned, shall or may be
 objected against him upon his trial; and it is
 as much impossible for him to bring witnesses
 to prove all the meetings he hath had with
 others in his life-time, as it is for him to know,
 upon this general charge, what meeting or con-
 sultation may upon his trial be objected against
 him as a traiterous meeting, or consultation:
 and where it is in the said impeachment charg-
 ed upon the said lord, ‘ That he hath uttered
 ‘ treason, by malicious and advised speaking,
 ‘ writing, and otherwise declaring;’ that the
 said lord saith, that never any traiterous
 thought ever entered into his heart; and there-
 fore he cannot possibly know or discover what
 words or writing he ever spoke, uttered, writ,
 or declared, which are now charged upon him
 as treason; there being no words or writing at
 all specified in the impeachment, whereby the
 said lord might know how to prepare his de-
 fence against them, or that this most honour-
 able House might judge whether the same words
 or writing were in law treasonable or not.

“ All which uncertainties, and the imminent
 and apparent danger of the said lord’s being
 thereupon surprised in his trial of a cause of
 this consequence to the said lord, wherein his
 life, and honour more dear to him than his life,
 and all else that is dear to him in this world,
 are immediately concerned, being seriously
 weighed and considered by your lordships; he
 humbly prayeth, as by his counsel he is advised,

That your lordships will not put him to answer the said impeachment, as to the charges herein above recited, till the same be reduced to some competent certainty, that the same lord may know what to answer unto, and may be thereby enabled to make his just defence accordingly: All which notwithstanding, he humbly submits to your lordships grave judgments and considerations; professing himself always ready and willing to do and submit to whatsoever your lordships in justice shall order and think fit. And as to all other the treasons, crimes, and offences whatsoever, contained, mentioned, or specified in the said impeachment; the said lord, protesting that they are incertainly and insufficiently alledged, and therefore saving to himself the benefit of exception thereto, for answer thereto, saith, That he is not nor ever was, guilty of the said treasons, crimes, and offences, or of any or either of them, of which he stands charged by the said impeachment; and, for his trial thereof, putteth himself upon and humbly submitteth to, the judgment of your lordships; whose justice the said lord now doth, and always shall, rely upon, and therein acquiesce. "BELASYSE."

Ordered, That this Answer be communicated to the House of Commons, with this intimation, That it be speedily returned.

April 16.

This House taking notice, with great dislike, of tumultuous concourse and noise of people, upon occasion of bringing the lords Prisoners in the Tower to Westminster:

It is this day ordered, by the Lords spiritual and temporal in parliament assembled, That the Lord Mayor of the city of London, and the justices of peace and head bailiff for the city of Westminster, and the justices of peace for the county of Surrey, be, and are hereby, required respectively, within their several jurisdictions and limits, to take care and order, in such manner as to them shall seem meet, that there be no such disorderly assembling of people, in the said cities of London or Westminster, borough of Southwark, or at, or near Lambeth, or in any part of any of the said places, at any time, and in particular at such times as the lords who are prisoners in the Tower shall be brought either by land or by water to Westminster, from henceforth, during the time of their respective trials.

This day being appointed for the four Lords prisoners in the Tower to put in their Answers to the Impeachment of the House of Commons against them:

The House ordered, that every lord singly should be brought to the bar, and kneel, and be demanded, 'Whether he had brought his Answer.'

EARL POWIS'S PLEA AND ANSWER.

The first was the earl of Powis; who delivered in his Answer in writing; which was made as followeth:

"The several Plea of William earl of Powis now prisoner in the Tower of London, to part, and his several Answer to the residue, of the Articles of Impeachment of High Treason, and other high Crimes and Offences, exhibited to the Lords Spiritual and Temporal in Parliament assembled, against the said earl and others therein named, whereof the said earl stands impeached, by the Knights Citizens and Burgesses, in Parliament assembled, in the name of themselves, and of all the Commons of England.

"The said earl, in the first place, and before all other, protesting his innocency of and from all the treasons, and other crimes and offences whatsoever, in the said articles contained, and no way acknowledging, confessing, granting, or admitting, all or any the clauses, articles, or matters, in the said Articles of Impeachment contained or specified (so far as the same any way concerns him) to be true, as in and by the same Articles of Impeachment is supposed; and humbly praying a favourable construction by this most honourable House of what the said earl shall humbly offer by way of plea to such part of the impeachment as is hereunder mentioned, and that the same may not be taken or construed as any subterfuge or evasion of the justice of this most honourable House, to which the said earl doth with all humility submit himself; desiring above all things the trial of his cause by this most honourable House, so that he may be provided to make his just defence for the clearing of his innocency from the great and heinous crimes charged upon him by the said Impeachment; This being prayed, as also liberty to correct, amend, or explain, any thing in this his plea and answer contained, which may any way give the most honourable House any occasion of offence; and he hopeth, being granted; the said earl, as to that part of the impeachment that containeth the matter following, namely, 'That, for many years now last past, there hath been contrived and carried on, by papists, a traiterous and execrable Conspiracy and Plot, within this kingdom of England and other places, to alter, change, and subvert, the ancient government and laws of this kingdom and nation, and to suppress the true religion therein established, and to extirpate and destroy the professors thereof; and that the said Plot and Conspiracy was contrived and carried on in divers places, and by several ways and means, and by a great number of persons of several qualities and degrees who acted therein, and intended thereby to execute and accomplish their aforesaid wicked and traiterous designs and purposes; that the said earl of Powis, and the other lords therein named, together with the several other persons therein likewise named or mentioned, as false traitors to his majesty and this kingdom, within the time aforesaid, have traiterously consulted, contrived, and acted, to and for the accomplishing the said

‘wicked, pernicious and traiterous designs;
 ‘and for that end did most wickedly and traiterously agree, conspire, and resolve, to imprison, depose, and murder, his sacred majesty, and to deprive him of his royal estate, crown, and dignity; and, by malicious and advised speaking, writing, and otherwise declaring such their purposes and intentions;
 ‘and also to subject this kingdom and nation to the pope, and to his tyrannical government;
 ‘and to seize and share amongst themselves the estates and inheritances of his majesty’s Protestant subjects; and to erect and restore abbeys, monasteries, and other convents and societies, which have been long since by the laws of this kingdom suppressed, for their superstition and idolatry, and to deliver up and restore to them the lands and possessions now vested in his majesty and his subjects by the laws and statutes of this realm; and also to found and erect new monasteries and convents; and to remove and deprive all Protestant bishops, and other ecclesiastical persons, from their offices, benefices, and preferments; and by this means to destroy his majesty’s person, to extirpate the Protestant religion, overthrow the rights, liberties, and properties, of all his majesty’s good subjects, subvert the lawful government of this kingdom, and subject the same to the tyranny of the see of Rome; and that the said conspirators, and their complices and confederates, traiterously had and held several meetings, assemblies, and consultations, wherein it was contrived and designed amongst them, what means should be used, and what persons and instruments should be employed, to murder his majesty; and did then and there resolve to effect it, by poisoning, shooting, stabbing, or some such like ways and means; and also as to that part of the impeachment which chargeth, ‘That the said earl of Powis, and the other persons in the said impeachment named the better to compass their traiterous designs, have consulted to raise men, money, horses, arms, and ammunition;’ the said earl of Powis, saying to himself (and which he humbly prayeth may be reserved to him) the liberty of answering over, and denying all and singular the said crimes and offences so charged upon him, saith, and humbly offereth to this most honourable House, that the charge of those crimes and offences, so imposed upon him by the said impeachment, is so general and uncertain, that he cannot by any possibility give any direct answer thereto, nor make his just and lawful defence upon any trial of the same; for that the said charge hath no manner of certainty in point of time, it being laid only, ‘for many years now last past a traiterous and execrable Plot and Conspiracy hath been contrived and carried on;’ which may be for five, ten, twenty, or thirty, or more years past; whereby, though the said earl knoweth himself to be altogether innocent of any such horrid and detestable crimes, as by the said impeachment are objected against

VOL. VII.

him, yet it is no way possible for him, upon any trial thereof, to be prepared with his just and lawful defence, by witnesses, to prove himself absent, and in another place, at the time of such meeting or consultation to or for any the wicked designs and purposes in the said impeachment mentioned, as upon his trial may be suddenly objected against him, when he cannot, by any care or foresight whatsoever, have such witnesses ready as could disprove the same, if he were certainly charged for any traitorous act or crime, at any time certainly alledged in the said impeachment; nor is the same charge in the said impeachment more certain as to the place of any such traitorous meeting or consultation laid down in the said impeachment, it being only alledged to be ‘at divers places within the realm of England, and elsewhere;’ which, for the causes aforesaid, is likewise so utterly uncertain, that it deprives the said earl of his just defence upon his trial: The uncertainty likewise of the number of meetings or consultations, to the wicked purposes in the impeachment mentioned; and the not shewing how many times the said earl met and consulted, and with whom in particular, doth likewise deprive him of all possibility of making his defence, or producing his witnesses; for that the said earl, being wholly innocent, cannot suppose or imagine what meeting or consultation, either to raise men or money, for the carrying on of a traitorous design, or to any other wicked intent or purpose in the said impeachment mentioned, shall or may be objected against him upon his trial; and it is as much impossible for him to bring witnesses to prove all the meetings he hath had with others in his lifetime, as it is for him to know, upon this general charge, what meeting or consultation may upon his trial be objected against him as a traitorous meeting or consultation: And where it is in the said impeachment charged upon the said earl, ‘That he hath uttered treason, by malicious and advised speaking, writing, and otherwise declaring;’ the said earl saith, That never any traitorous thought ever entered into his heart; and therefore he cannot possibly know or discover what words or writing he ever spoke, uttered, wrote, or declared, which are now charged upon him as treason, there being no words or writing at all specified in the impeachment; whereby the said earl might know how to prepare his defence against them, or that this most honourable House might judge whether the same words or writing were in law treasonable or not.

“All which uncertainties, and the imminent and apparent danger of the said earl’s being thereupon surprised in his trial of a cause of this consequence to the said earl, wherein his life (and honour, more dear to him than his life), and all else that is dear to him in this world, are immediately concerned, being seriously weighed and considered by your lordships; he humbly prayeth, as by his counsel he is advised, That your lordships will not put

4 L

him to answer the said impeachment, as to the charges herein above recited, till the same be reduced to some competent certainty, that the earl may know what to answer unto, and may be thereby enabled to make his just defence accordingly: All which notwithstanding, he humbly submitteth to your lordships grave judgments and considerations; professing himself always ready and willing to do and submit to whatsoever your lordships in justice shall order or think fit. And as to all other the treasons, crimes, and offences whatsoever, contained, mentioned, or specified in the said impeachment; the said earl, protesting that they are uncertainly and insufficiently alledged, and therefore saving to himself the benefit of exception thereunto, for answer thereto saith, That he is not, nor ever was, guilty of the said treasons, crimes, and offences, or of any or either of them, of which he stands charged by the said impeachment; and, for his trial thereof, putteth himself upon, and humbly submitteth to, the judgment of your lordships; whose justice the said earl now doth, and always shall, rely upon, and therein acquiesce.

POWIS."

VISCOUNT STAFFORD'S PLEA AND ANSWER.

The lord viscount Stafford was brought in like manner, and delivered in his Answer; which was read as followeth:

"The several Plea of WILLIAM viscount of STAFFORD, now prisoner in the Tower of London, to part, and his several Answer to the Residue, of the Articles of Impeachment of High-Treason, and other high Crimes and Offences, exhibited to the Lords Spiritual and Temporal in Parliament assembled, against the said viscount and others therein named, whereof the said viscount stands impeached, by the Knights, Citizens, and Burgesses in Parliament assembled, in the name of themselves and of all the Commons of England.

"The said viscount, in the first place, and before all others, protesting his innocency of and from all the treasons, and other crimes and offences whatsoever, in the said Articles contained, and no way acknowledging, confessing, granting or admitting, all or any the clauses, articles, or matters, in the said Articles of Impeachment contained or specified (so far as the same may any way concern him) to be true, as in and by the same Articles of Impeachment is supposed; and humbly praying a favourable construction, by this most honourable House, of what the said viscount shall humbly offer, by way of plea, to such part of the Impeachment as is hereunder mentioned, and that the same may not be taken or construed as any subterfuge or evasion of the justice of this most honourable House, to which the said viscount doth, with all humility, wholly submit himself; desiring above all things the trial of his cause by this most honourable House, so that he may

be provided to make his just defence, for the clearing of his innocency from the great and heinous crimes charged upon him by the said Impeachment: This being prayed, as also liberty to correct, amend, or explain, any thing in this his Plea and Answer contained, which may any way give this most honourable House any occasion of offence; and, he hopeth, being granted; the said viscount, as to that part of the Impeachment that containeth the matter following; namely, 'That, for many years now
'last past, there hath been contrived and carried on, by papists, a traitorous and execrable
'conspiracy and plot, within this kingdom of
'England and other places, to alter, change,
'and subvert, the ancient government and
'laws of this kingdom and nation, and to suppress the true religion therein established, and
'to extirpate and destroy the professors thereof; and that the said plot and conspiracy was
'contrived and carried on, in divers places,
'and by several ways and means, and by a
'great number of persons of several qualities
'and degrees, who acted therein, and intended thereby to execute and accomplish their
'aforesaid wicked and traitorous designs and
'purposes; that the said viscount of Stafford,
'and the other lords therein named, together
'with the several other persons therein likewise named or mentioned, as false traitors to
'his majesty and this kingdom, within the time
'aforesaid, have traitorously consulted, contrived, and acted, to and for the accomplishing the said wicked, pernicious, and traitorous
'designs; and, for that end, did most wickedly
'and traitorously agree, conspire, and resolve, to
'imprison, depose, and murder his sacred majesty, and to deprive him of his royal estate, crown,
'and dignity, and by malicious and advised speaking, writing, and otherwise declaring such their
'purposes and intentions; and also to subject
'this kingdom and nation to the pope, and to
'his tyrannical government; and to seize and
'share amongst themselves the estates and inheritance of his majesty's Protestant subjects;
'and to erect and restore abbies, monasteries,
'and other convents and societies, which have
'been long since, by the laws of this kingdom,
'suppressed for their superstition and idolatry,
'and to deliver up and restore to them the
'lands and possessions now vested in his majesty and his subjects by the laws and statutes
'of this realm; and also to found and erect
'new monasteries and convents; and to remove and deprive all Protestant bishops, and
'other ecclesiastical persons, from their offices, benefices, and preferments; and by
'this means to destroy his majesty's person,
'extirpate the Protestant religion, overthrow
'the rights, liberties and properties, of all his
'majesty's good subjects, subvert the lawful government of this kingdom, and subject the
'same to the tyranny of the see of Rome; and
'that the said conspirators, and their accomplices and confederates, traitorously had and
'held several meetings, assemblies and consultations, wherein it was contrived and designed

‘ amongst them, what means should be used, and what persons and instruments should be employed, to murder his majesty; and did then and there resolve to effect it, by poisoning, shooting, stabbing, or some such like ways and means;’ and also as to that part of the impeachment which chargeth, ‘ That the said viscount of Stafford, and the other persons in the said impeachment named, the better to compass their traitorous designs, have consulted to raise men, money, horses, arms, and ammunition;’ the said viscount of Stafford, saving to himself (and which he humbly prayeth may be reserved to him) the liberty of answering over and denying all and singular the said crimes and offences so charged upon him, saith, and humbly offereth to this most honourable House, That the charge of those crimes and offences, so imposed upon him by the said impeachment, is so general and uncertain, that he cannot by any possibility give any direct answer thereto, nor make his just and lawful defence upon any trial of the same; for that the said charge hath no manner of certainty in point of time, it being laid only, ‘ For many years now last past a traitorous and execrable Plot and Conspiracy hath been contrived and carried on;’ which may be for five, ten, twenty, or thirty, or more years past; whereby, though the said viscount knoweth himself to be altogether innocent of any such horrid and detestable crimes as by the said impeachment are objected against him, yet it is no way possible for him, upon any trial thereof, to be prepared with his just and lawful defence, by witnesses, to prove himself absent, and in another place, at the time of such meeting or consultation to or for any the wicked designs and purposes in the said impeachment mentioned, as upon his trial may be suddenly objected against him, when he cannot, by any care or foresight whatsoever, have such witnesses ready as could disprove the same, if he were certainly charged for any traitorous act or crime at any time certainly alledged in the said impeachment; nor is the said charge in the said impeachment more certain as to the place of any such traitorous meeting or consultation laid down in the said impeachment, it being only alledged to be, ‘ at divers places within the realm of England, and elsewhere;’ which, for the causes aforesaid, is likewise so utterly uncertain, that it deprives the said viscount of his just defence upon his trial: The uncertainty likewise of the number of meetings or consultations to the wicked purposes in the impeachment mentioned, and the not shewing how many times the said viscount met and consulted, and with whom in particular, doth likewise deprive him of all possibility of making his defence, or producing his witnesses; for that the said viscount, being wholly innocent, cannot suppose or imagine what meeting or consultation, either to raise men or money for the carrying on of a traitorous design, or to any other wicked intent or purpose in the said impeachment mentioned, shall or may be object-

ed against him upon his trial; and it is as much impossible for him to bring witnesses to prove all the meetings he hath had with others in his life-time, as it is for him to know, upon this general charge, what meeting or consultation may upon his trial be objected against him as a traitorous meeting or consultation: And where it is in the said impeachment charged upon the said viscount, ‘ That he hath uttered treason, by malicious and advised speaking, writing, and otherwise declaring;’ the said viscount saith, That never any traitorous thought ever entered into his heart; and therefore he cannot possibly know or discover what words or writing he ever spoke, uttered, wrote, or declared, which are now charged upon him as treason; there being no words or writing at all specified in the impeachment, whereby the said viscount might know how to prepare his defence against them, or that this most honourable House might judge whether the same words or writing were in law treasonable or not.

“ All which uncertainties, and the imminent and apparent danger of the said viscount’s being thereupon surprised in his trial of a cause of this consequence to the said viscount, wherein his life (and honour, more dear to him than his life), and all else that is dear to him in this world, are immediately concerned, being seriously weighed and considered by your lordships; he humbly prayeth, as by his counsel he is advised, That your lordships will not put him to answer the said impeachment, as to the charges herein above recited, till the same be reduced to some competent certainty, that the viscount may know what to answer unto, and may be thereby enabled to make his just defence accordingly: All which notwithstanding, he humbly submitteth to your lordships grave judgments and considerations; professing himself always ready and willing to do and submit to whatsoever your lordships in justice shall order or think fit. And as to all other the treasons, crimes and offences whatsoever, contained, mentioned or specified in the said impeachment; the said viscount, protesting that they are uncertainly and insufficiently alledged, and therefore saving to himself the benefit of exception thereunto, for answer thereunto saith, That he is not, nor ever was, guilty of the said treasons, crimes, and offences, or of any or either of them, of which he stands charged by the said impeachment; and, for his trial thereof, putteth himself upon, and humbly submitteth to, the judgment of your lordships; whose justice the said viscount now doth, and always shall, rely upon, and therein acquiesce.

“ STAFFORD.”

LORD PETRE’S ANSWER.

The lord Petre was brought in the like manner, and delivered in his Answer; which was read, as followeth:

“ The humble Answer of WILLIAM Lord PETRE, now Prisoner in the Tower of London, to the

Articles of Impeachment of High Treason, and other high Crimes and Offences, exhibited against him and others, by the Knights, Citizens, and Burgesses in Parliament assembled, according to the direction of an order of this House, of the 9th of this instant April.

“All advantages of exception to the said Articles of Impeachment to this defendant saved and reserved :

“As to the first part of the said Articles, by which it is set forth, ‘That, for many years now last past, there hath been contrived and carried on, by papists, a traitorous and execrable conspiracy and plot, within this kingdom of England and other places, to alter, change, and subvert, the ancient government and laws of this kingdom and nation, and to suppress the true religion therein established, and to extirpate and destroy the professors thereof; which said plot and conspiracy was contrived and carried on, in divers places, and by several ways and means, and by a great number of persons of several qualities and degrees, who acted therein, and intended thereby to execute and accomplish their aforesaid wicked and traitorous designs and purposes;’ this defendant saith, That he doth not know that all, or any of the matters herein before recited are true, of his own knowledge; nor any otherwise, but by the proofs heard and taken before both Houses of parliament, and by their votes thereupon, and likewise by the several indictments, trials, verdicts, and judgments, lately had and given in divers courts of record relating thereunto.— And this defendant further saith, That he is not guilty of all or any the matters by the said Articles of Impeachment charged against him; and, for his trial thereupon, he humbly putteth himself upon God and his peers.

WILL. PETRE.”

LORD ARUNDEL OF WARDOUR'S PLEA AND ANSWER.

The lord Arundel of Wardour was brought in the like manner, and delivered in his answer; which was read, as followeth :

“The several Plea of Henry lord ARUNDEL of WARDOUR, now Prisoner in the Tower of London, to part, and his several Answer to the residue, of the Articles of Impeachment of High Treason, and other high Crimes and Offences, exhibited to the Lords Spiritual and Temporal in Parliament assembled, against the said lord Arundel of Wardour, and others therein named, whereof the said lord stands impeached, by the Knights, Citizens, and Burgesses, in Parliament assembled, in the name of themselves and of all the Commons of England.

“The said lord, in the first place, and before all others, protesting his innocency of and from all the treasons, and other crimes and offences whatsoever, in the said Articles contained; and no way acknowledging, confessing, granting, or admitting, all or any the clauses,

articles, or matters, in the said Articles of Impeachment contained or specified (so far as the same any way concerns him,) to be true, as in and by the same Articles of Impeachment is supposed; and humbly praying a favourable construction, by this most honourable House, of what the said lord shall humbly offer by way of Plea to such part of the Impeachment as is hereunder mentioned, and that the same may not be taken or construed as any subterfuge or evasion of the justice of this honourable House, to which the said lord doth, with all humility, wholly submit himself; desiring, above all things, the trial of his cause by this most honourable House, so that he may be provided to make his just defence, for the clearing of his innocency from the great and heinous crimes charged upon him by the said Impeachment : This being prayed, as also liberty to correct, amend, or explain any thing in this his Plea and Answer contained, which may any way give this most honourable House any occasion of offence; and, he hopeth, being granted; the said lord, as to that part of the Impeachment that containeth the matter following, namely, ‘That, for many years now last past, there hath been contrived and carried on, by papists, a traitorous and execrable conspiracy and plot, within this kingdom of England and other places, to alter, change, and subvert, the ancient government and laws of this kingdom and nation, and to suppress the true religion therein established, and to extirpate and destroy the professors thereof; and that the said plot and conspiracy was contrived and carried on, in divers places, and by several ways and means, and by a great number of persons of several qualities and degrees, who acted therein, and intended thereby to execute and accomplish their aforesaid wicked and traitorous designs and purposes; that the said lord, and the other lords therein named, together with the several other persons therein likewise named or mentioned, as false traitors to his majesty and this kingdom, within the time aforesaid, have traitorously consulted, contrived, and acted, to and for the accomplishing the said wicked, pernicious, and traitorous designs; and, for that end, did most wickedly and traitorously agree, conspire, and resolve, to imprison, depose, and murder his sacred majesty, and to deprive him of his royal estate, crown, and dignity; and, by malicious and advised speaking, writing, and otherwise, declaring such their purposes and intentions; and also to subject this kingdom and nation to the pope, and to his tyrannical government, and to seize and share amongst themselves the estates and inheritances of his majesty's protestant subjects; and to erect and restore abbies, monasteries, and other convents and societies, which have been long since, by the laws of this kingdom, suppressed, for their superstition and idolatry; and to deliver up and restore to them the lands and possessions now vested in his majesty and his subjects by the laws and statutes of this realm; and also to found and erect new monasteries and convents; and to remove and

deprive all protestant bishops, and other ecclesiastical persons, from their offices, benefices, and preferments; and by this means to destroy his majesty's person, extirpate the protestant religion, overthrow the rights, liberties, and properties of all his majesty's good subjects, subvert the lawful government of this kingdom, and subject the same to the tyranny of the see of Rome; and that the said conspirators, and their complices and confederates, traitorously had and held several meetings, assemblies, and consultations, wherein it was contrived and designed amongst them what means should be used, and what persons and instruments should be employed, to murder his majesty; and did then and there resolve to effect it, by poisoning, shooting, stabbing, or some such like ways and means; and also to that part of the impeachment which chargeth, 'That the said lord, and the other persons in the said impeachment named, the better to compass their traitorous designs, have consulted to raise men, money, horses, arms, and ammunition;' the said lord, saving to himself (and which he humbly prayeth may be reserved to him) the liberty of answering over and denying all and singular the said crimes and offences so charged upon him, saith, and humbly offereth to this most honourable House, That the charge of those crimes and offences, so imposed upon him by the said impeachment, is so general and uncertain, that he cannot by any possibility give any direct answer thereto, nor make his just and lawful defence upon any trial of the same, for that the said charge hath no manner of certainty in point of time; it being laid 'for many years now last past, a traitorous and execrable plot and conspiracy hath been contrived and carried on;' which may be for five, ten, twenty, or thirty, or more years past, whereby, though the said lord knoweth himself to be altogether innocent of any such horrid and detestable crimes as by the said impeachment are objected against him, yet it is no way possible for him, upon any trial thereof, to be prepared with his just and lawful defence, by witnesses, to prove himself absent, and in another place, at the time of such meeting or consultation to or for any the wicked designs and purposes in the said Impeachment mentioned, as upon his trial may be suddenly objected against him, when he cannot, by any care or foresight whatsoever, have such witnesses ready as could disprove the same, if he were certainly charged for any traitorous act or crime, at any time certainly alledged in the said impeachment; nor is the same charge in the said impeachment more certain, as to the place of any such traitorous meeting or consultation laid down in the said impeachment, it being only alledged, to be 'at divers places, within the realm of England and elsewhere;' which, for the causes aforesaid, is likewise so utterly uncertain, that it deprives the said lord of his just defence upon his trial: The uncertainty likewise of the number of meetings or consultations to the wicked purposes in the impeachment mentioned, and the

not shewing how many times the said lord met and consulted, and with whom in particular, doth likewise deprive him of all possibility of making his defence, or producing his witnesses; for that the said lord, being wholly innocent, cannot suppose or imagine what meeting or consultation, either to raise men or money, for the carrying on of a traitorous design, or to any other wicked intent or purpose in the said impeachment mentioned, shall or may be objected against him upon his trial; and it is as much impossible for him to bring witnesses to prove all the meetings he hath had with others in his life-time, as it is for him to know, upon this general charge, what meeting or consultation may, upon his trial, be objected against him as a traitorous meeting or consultation: And where it is in the said impeachment charged upon the said lord, 'that he hath uttered treason, by malicious and advised speaking, writing, and otherwise declaring;' the said lord saith, That never any traitorous thought ever entered into his heart; and therefore he cannot possibly know or discover what words or writing he ever spoke, uttered, wrote, or declared, which are now charged upon him as treason; there being no words or writing at all specified in the impeachment, whereby the said lord might know how to prepare his defence against them, or that this most honourable House might judge whether the same words or writing were in law treasonable or not.

"All which uncertainties, and the imminent and apparent danger of the said lord's being thereupon surprised in his trial of a cause of this consequence to the said lord, wherein his life (and honour, more dear to him than his life,) and all else that is dear to him in this world, are immediately concerned, being seriously weighed and considered by your lordships; he humbly prayeth, as by his counsel he is advised, That your lordships will not put him to answer the said impeachment, as to the charges herein above recited, till the same be reduced to some competent certainty, that the said lord may know what to answer unto, and may be thereby enabled to make his just defence accordingly: All which notwithstanding, he humbly submitteth to your lordships grave judgments and considerations; professing himself always ready and willing to do and submit to whatsoever your lordships in justice shall order or think fit. And as to all other the treasons, crimes, and offences whatsoever, contained, mentioned, or specified in the said impeachment; the said lord protesting that they are uncertainly and insufficiently alledged, and therefore saving to himself the benefit of exception thereunto, for answer thereto saith, That he is not, nor ever was, guilty of the said treasons, crimes, and offences, or of any or either of them, of which he stands charged by the said impeachment; and, for his trial thereof, putteth himself upon, and humbly submitteth to, the judgment of your lordships; whose justice the said lord now doth, and always shall, rely upon, and therein acquiesce. HEN. ARUNDEL."

April 24.

A Message was brought from the Commons, by Mr. Booth and others: to desire a Conference, concerning the Pleas and Answer of the Five Lords in the Tower, impeached by the House of Commons.

The Answer returned was: that the Lords have considered their Message, and will give them a Conference, as is desired; which the Lords appoint to be presently, in the Painted Chamber. The lord President, the lord Privy Seal, earl of Oxon, earl of Derby, earl of Huntingdon, earl of Bridgewater, earl of Northampton earl of Clarendon, viscount Newport, bishop of London, bishop of Durham, and the lord Wharton, are appointed reporters of this Conference.

The House was adjourned during pleasure, and the Lords went to the Conference; which being ended, the House was resumed.

And the Lord President reported the effect of the Conference; viz.

"That sir Francis Winnington managed the Conference; which, he told us, was desired concerning the Five Pleas, or Answers, or rather writings, of the Lords in the Tower.

"In the first place, he offers that my lord Bellasis cannot put in his Answer but personally at the bar; otherwise they account it as a nullity.

"That the several writings (for so he can only call them) of the Four Lords are argumentative and evasive; to which the Commons neither can nor ought to reply.

"That the Answer of my lord Petre is a legal Answer.

"That the lord Bellasis must put in his Answer, before the other lords can be proceeded with.

"Therefore the Commons demand of the Lords, That the Three Lords may be required to put in more perfect Answers; and that the lord Bellasis may be required forthwith to put in his Answer.

"As to what the impeached Lords complain of, the uncertainty of the time in their charge; the House of Commons have considered all precedents ancient and modern; and find them all to run in general terms, as this doth. But, because they would speed the matter, and avoid delays, the House of Commons do declare, That, in the trial of these Five Lords, they will give no evidence particularly beyond the space of seven years last past."

After some debate; these lords following were appointed, to consider of the Objections made by the House of Commons this day at the Conference, concerning the Pleas and Answers of the Five Lords now prisoners in the Tower, to the Impeachments wherewith they are charged by the House of Commons, and to report to the House what they find concerning matters of this nature: L. President, L. Privy Seal. Marq. of Winton. Earls Derby, Huntingdon, Salisbury, Bridgewater, Chesterfield, Clarendon, Essex, Craven, Burlington; viscounts Fauconberg, Halifax, Newport; bishops

of London, Durlam, Rochester, Ely, Bath and Wells, Exon. Lords Berkeley, Wharton, Paget, Grey de Wark, Roberts, Howard de Esc. Byron, Colepeper, Lucas, Gerrard B. Delamer, Frescheville, Arundel, T.

Ordered, That the lord Bellasis is required to put in his Answer to-morrow morning, at this bar, personally.

April 25.

The lord Bellasis being brought to the bar, and kneeling, he was bid to stand up: was told, "That whereas he hath put in a Plea and Answer to the Impeachment of the House of Commons against him; the House of Commons have taken exceptions to his Plea and Answer, as argumentative and evasive, and to which the Commons cannot reply. The lords do not give any opinion one way or other in the case: but, if he think fit to mend his plea, he may; if he insist on it, he may. But the House expects such an Answer as he will abide by, and stand to."

After this, he withdrew. And being called in again, he was told, "He could have but one Plea depending in court: and if he will stand by the plea he hath put in, he may; otherwise he may put in a new plea, and withdraw the former."

Upon this, John lord Bellasis put in another Answer; and his former Answer was re-delivered him.

Whereas John lord Bellasis, prisoner in the Tower, for treason, and other high crimes, misdemeanors and offences, of which he stands impeached by the House of Commons, was this day brought to the bar, to put in his Answer to the said Impeachment; and there desired that Mr. Holt, counsellor atlaw, may be added to the counsel formerly assigned to him.

Ordered, That Mr. Holt be, and is hereby, assigned to be of counsel for the said lord Bellasis, in like manner, and for the like purposes, as the other counsel formerly desired on his lordship's behalf were assigned.

The said Answer was read, as follows:

LORD BELLASIS'S ANSWER.

"The humble Answer of John lord BELLASIS, now Prisoner in the Tower of London, to the Articles of Impeachment of high treason, and other high Crimes and Offences, exhibited against him the said lord Bellasis and others, to the Lords Spiritual and Temporal in Parliament assembled, by the knights, citizens, and burgesses in Parliament assembled in the name of themselves and of all the Commons of England.

"This defendant saving and reserving to himself all advantages and benefit of exception to the generality, uncertainty and other insufficiencies of the said Articles; of which he humbly prays that notice may be taken, and a just regard may be had by your lordships:—He saith, That he is not guilty of all or any of the matters by the said Articles of Impeachment charged against him, in manner and form as

they are charged against him; and for his trial, he humbly putteth himself upon his peers.

"BELLASIS."

A Message was sent to the House of Commons, by sir Timothy Baldwin and sir John Hoskyns: To communicate to them the Plea and Answer of Thomas earl of Danby, and the Answer of John lord Bellasis delivered in this day at the bar in person; with this desire, "That these original Answers may be returned with convenient speed."

Ordered, That the lieutenant of the Tower of London be, and is hereby required to bring William earl of Powis, William viscount Stafford, and Henry lord Arundel of Wardour, now prisoners there, to the bar of this House, to-morrow, at ten o'clock in the forenoon.

April 26.

The earl of Powis, viscount Stafford, and lord Arundel of Wardour, being brought to this bar, and kneeling, and then bid stand up, were told, "That the House of Commons have taken Exceptions to their Pleas and Answers, as argumentative and evasive, and to which the Commons cannot reply. The Lords do not give any opinion, one way or other, in the case: but, if they think fit to mend their Pleas, they may; if they insist on them, they may: but the House expects such Answers as they will abide by, and stand to." After this, they withdrew.

They are called in again; and told, "They can have but one Plea depending in court: and if they will stand by the Plea they have put in, they may; otherwise they may put in new Pleas, and withdraw the former." After this, the earl of Powis, viscount Stafford, and the lord Arundel of Wardour, put in other Answers; and the former Answers were re-delivered them.

Then the several Answers were read, as follows:

EARL POWIS'S ANSWER.

"The humble Answer of William earl of Powis, now Prisoner in the Tower of London, to the Articles of Impeachment of High Treason, and other high Crimes and Offences, exhibited against him the said Earl and others, to the Lords Spiritual and Temporal in Parliament assembled, by the Knights, Citizens, and Burgesses in Parliament assembled, in the name of themselves and of all the Commons of England.

"This defendant saving and reserving to himself all advantage and benefit of exception to the generality, uncertainty, and other insufficiencies, of the said Articles; of which he humbly prays that notice may be taken, and a just regard may be had by your lordships:—He saith, That he is not guilty of all or any of the matters by the said Articles of Impeachment charged against him, in manner and form

as they are charged against him; and, for his trial, he humbly putteth himself upon his peers.

"POWIS."

VISCOUNT STAFFORD'S ANSWER.

"The humble Answer of William viscount of STAFFORD, now Prisoner in his Majesty's Tower of London, to the Impeachment of High Treason, and other high Crimes and Misdemeanors, exhibited against him and others, to the Right Honourable the Lords Spiritual and Temporal in Parliament, by the Knights, Citizens, and Burgesses in Parliament assembled, in the name of themselves and of the Commons of England.

"The said Viscount saving to himself all advantage and benefit of exceptions to the generality, uncertainty, and insufficiency of the said Impeachment; most humbly beseeching their lordships thereof to take due notice, and thereunto at all times to have a just regard:—He answereth and saith, That he is not guilty of all or any of the offences charged against him by the said Impeachment; and, for his trial, humbly and willingly putteth himself upon his peers; no ways doubting but, by the grace of God, and their lordships impartial justice, he shall make his innocence appear. All which he most humbly submitteth unto their lordships further consideration. "STAFFORD."

LORD ARUNDEL OF WARDOUR'S ANSWER.

"The humble Answer of Henry lord ARUNDELL of WARDOUR, now Prisoner in the Tower of London, to the Articles of Impeachment of High Treason, and other high Crimes and Offences, exhibited against him the said lord Arundel and others, to the Lords Spiritual and Temporal in Parliament assembled, by the Knights, Citizens, and Burgesses in Parliament assembled, in the name of themselves and of all the Commons of England.

"This defendant saving and reserving to himself all advantage and benefit of exception to the generality, uncertainty, and other insufficiencies of the said Articles; of which he humbly prays that notice may be taken; and a just regard may be had by your lordships:—He saith, That he is not guilty of all or any the matters by the said Articles of Impeachment charged against him in manner and form as they are charged against him; and, for his trial, he humbly putteth himself upon his Peers. "HEN. ARUNDEL."

A Message was sent to the House of Commons, by sir Miles Coke and sir John Hoskins: To communicate to them the several Answers of the earl of Powis, viscount Stafford, and the lord Arundel, given in this day, at this bar, by the lords in person.

April 29.

A Message was brought from the House of Commons, by sir John Trevor and other: To

return the original pleas of the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasis.

Upon reading the petition of William earl of Powis, William viscount of Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis; shewing "That in order to their defence upon their trials, they have sent for, from beyond the seas, Christopher Towneley, Henry Hall, and Daniel Gifford, being very material witnesses; which witnesses are imprisoned upon suspicion of being priests, as in the petition is alledged; and praying, that they may be discharged from their imprisonment:"

Ordered, That the warrants by which the said Christopher Townley, Henry Hall, and Daniel Gifford, were committed to prison, shall be brought before this House to-morrow.

Ordered, That neither the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasis, being prisoners in the Tower, nor any of them, shall send for any person or persons from beyond the seas, to be used as witnesses upon their respective trials, unless they shall first give in the name or names of such person or persons, to be allowed of by this House.

This day the several Indictments, whereby William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundell of Wardour, and John lord Bellasis, are found guilty of High-Treason, by the grand Jury, before the justices for the county of Midd. sitting at Westm. on the 3rd of December, 1678, were brought into this House, by virtue of his majesty's writs of Certiorari for that purpose issued.

May 1.

Ordered, That on Monday next this House will take into consideration, "whether the Lords spiritual are to vote in judicature, in cases of blood, or upon bills of attainder?"

May 6.

The House entered into consideration, "Whether the Lords spiritual are to vote in judicature in cases of blood, or upon bills of attainder?" After some debate; It is ordered, That this debate be resumed to-morrow morning.

A Message was brought from the House of Commons, by Mr. Treby and others: That the knights, citizens, and burgesses, in parliament assembled, having exhibited to this house Articles of Impeachment, of High-Treason and other high crimes and offences, against William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis; to which the said lords have severally pleaded not guilty: He said, "He was commanded, by the said knights, citizens and burgesses, to acquaint their lordships, that they will and are ready to make good the said Articles and Charge against those lords."

After debate of this Message: This question was proposed, "Whether the five Lords in the Tower shall be brought to their Trials (upon the Impeachment against them) this day sevensnight?" This previous question was put, "Whether this question shall be now put?" It was resolved in the affirmative.

Then the main question was put; viz. "Whether the Five Lords in the Tower, shall be brought to their trials (upon the impeachment against them) this day sevensnight?" It was resolved in the affirmative.

Ordered, That Westminster Hall is appointed to be the place for hearing the earl of Danby to make good his Plea of his pardon before this House, with a Lord High Steward, and also for Trial of the Five Lords impeached in like manner.

Ordered, That the lords with white staves do attend his majesty, to let him know, from this House, "That they have appointed to hear the earl of Danby to make good his Plea of his pardon to the Articles of Impeachment against him on Saturday next, in Westminster Hall; and that the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and the lord Bellasis, are to be brought to their Trials in Westminster Hall, upon the impeachments against them, on Tuesday next; and humbly to desire his majesty, that he will be pleased to appoint a high steward, for the purposes aforesaid, to continue during the said trials."

A Message was sent to the House of Commons by judge Atkins and judge Dolben: To acquaint them with the two orders made concerning the earl of Danby and the Five Lords in the Tower; and to let them know, that the lords have appointed an Address to be presented to his majesty, for naming a lord high steward, as well in the case of the earl of Danby, as for the Trials of the other Five Lords prisoners in the Tower; and that the same shall be in Westminster Hall.

May 7.

The lord viscount Newport reported, "That he waited on his majesty, with the desire of this House, that he would appoint a Lord High Steward, for the trials of the earl of Danby, and the Five Lords in the Tower; and his majesty returns this answer, that he will appoint a Lord High Steward by Saturday next."

The House resumed the debate, which was yesterday, "Whether the Lords spiritual are to vote in judicature in cases of blood, or upon bills of attainder." And, after a long debate, the question was proposed, "Whether this House shall be now adjourned till to morrow morning?" Then, this previous question was put, "Whether this question shall be now put?" It was resolved in the affirmative. The main question being put, "Whether this House shall be now adjourned till to morrow morning?" It was resolved in the affirmative.

May 8.

Ordered, That sir Bryan Broughton, sir

Thomas Whitgrave, Mr. Thomas Kennersley, Mr. Ralph Lawson, Mr. Thomas Abnell, Mr. William Pawlet, Nathaniel Caulkin, Elizabeth Eld, Ann Eld, Thomas Perry, James Jones, Mr. Ralph Phillips parson of Tixall, Mr. Sambeech, Mr. Thomas Astely, Mr. Goodard servant to the bishop of Litchfield and Coventry, Thomas Sayer, Mr. Richard Gerrard of Hillerson, John Proctor, Thomas Hollowes, John Pallet of Ridgley, Walter Collins of Stafford, Thomas Parker, Thomas Winter, John Menter, Anthony Landracy, William Parker, Anthony Cooke, James Baylie, John Joseph, Peter Carpenter, William Bradford, Elizabeth Silleyer, Edward Wood, John Minney, Thomas Andrewes, be, and are hereby, required to appear before the house of peers, in Westminster Hall, to give evidence of what they know, or can say on the behalf of William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Bellasis, or any of them, in their making their defences upon their respective Trials, on Tuesday next, being the thirteenth day of this instant May, and such times after as the said Trials shall continue.

May 8, p. m.

A Message was brought from the House of Commons, by sir Christopher Musgrave: to desire a Conference, concerning the matter of their lordships last Message sent to them, concerning the Trials of the earl of Danby and the five Lords in the Tower. The question was put, "Whether to give a present Conference with the House of Commons, in the Painted Chamber?" It was resolved in the affirmative.

The answer returned was, That this House will give a Conference, as is desired; and appoint the same to be presently, in the Painted Chamber. These lords following were appointed to report this Conference: L. President, L. Privy Seal; D. of Newcastle; earls of Huntingdon, Clarendon, and Essex; viscounts Fauconberg, and Halifax, bishop of Rochester; Lords Grey, Howard de Esc. and Colepeper. The House was adjourned during pleasure, and the Lords went to the Conference; which being ended, the House was resumed.

Then the Lord President reported the effect of the Conference; which was, "That the Commons suppose your lordships do intend, in all the proceedings upon the impeachments now depending before your lordships, to follow the usual course and methods of parliament. And the Commons cannot apprehend what should induce your lordships to address to his majesty for a Lord High Steward, in order to the determining the validity of the pardon which hath been pleaded by the earl of Danby to the Impeachment of the Commons, as also for the Trial of the other Five Lords; because the Commons conceive the constitution of a High Steward is not necessary; but that judgment may be given in parliament, upon Impeachment, without a High Steward."

"There being several other matters contained

in your lordships messages, touching the trial of the lords Impeachments, which, if not settled, may occasion several interruptions and delays in the proceedings; the House of Commons do therefore propose to your lordships, that a Committee of both Houses be nominated, to consider of the most proper ways and methods of proceedings upon impeachments of the House of Commons, according to the usage of parliament, that thereby those inconveniences may be avoided."

After a long debate, the question was put, "Whether to agree with the desire of the House of Commons at the Conference, to have a committee of both Houses, to consider of the manner of the Trials of the Lords?" It was resolved in the negative.

Dissentientibus; Finch, C. Arlington, Huntingdon, Bedford, Clare, Essex, Clarendon, Newport, Strafforde, Delamer, R. Eure, Rockingham, Pageit, P. Wharton, J. Lovelace, Shaftesbury, Pr. Derby, Salisbury, Halifax, Grey.

May 10.

A Message was brought from the House of Commons, by Mr. Titus, &c. That the Commons pray a Conference with their lordships, upon the subject matter of the last Conference. The answer returned was: That this House agrees to a conference, as is desired; and appoints the same to be presently, in the Painted Chamber. These lords following were appointed to report this Conference: L. President, L. Privy Seal; Earls of Bedford, Huntingdon, Salisbury, Bridgewater, Clarendon, and Essex; Bishop of Bath & Wells, lord Berkely, viscounts Fauconberg and Halifax. The House was adjourned during pleasure, and the lords went to the Conference; which being ended, the House was resumed.

Then the earl of Salisbury reported the effect of the last Conference; viz. "That for answer to the last Conference, the managers of this Conference were commanded by the House of Commons to say to your lordships, that your lordships do not offer any answer or satisfaction to the Commons, in their necessary proposal amicably offered by way of supposition, that they might have been confirmed therein by answer from your lordships, that your lordships do intend, in all the proceedings upon the impeachments now depending before your lordships, to follow the usual course and methods of parliament."

"And further, that your lordships have not given the least answer or satisfaction to the Commons, concerning your lordships addressing to the king for a Lord High Steward, though the Commons proposed their desire of satisfaction in that matter in as cautious terms as could be, on purpose to avoid all disputes about judicature. The Commons, to avoid all interruptions and delays in the proceedings against the lords impeached, and the inconveniences that may arise thereby, having proposed to your lordships, that a committee of both Houses

might be nominated, to consider of the most proper ways and methods of proceedings upon impeachments; your lordships, without any reason assigned (save only that you say, you do not think it conformable to the rules and order of the proceedings of this court) have refused to agree with the House of Commons in appointing such a committee, though not heretofore denied to the Commons, when asked upon the like occasion, and at this time desired purposely to avoid disputes and delays. And therefore the House of Commons have commanded us to acquaint your lordships, that, things standing thus upon your answer, they cannot proceed in the Trials of the Lords, before the methods of proceedings be adjusted between the two Houses."

After a long debate hereof: The question was put, "Whether a committee of this House shall be appointed to meet with a committee of the House of Commons to confer about the methods and forms of proceedings in order to the Trials of the lords?"

It was resolved in the negative.

The lord president reported, "That the committee of both Houses appointed to consider of propositions and circumstances in reference to the trials of the lords in the Tower, have met this morning, in the inner court of wards, and made an entrance into this business:—The committee of the House of Commons propose, that the Lords would consider of a longer time for the trials of the lords in the Tower.

"This proposition is agreed to be the last thing to be considered.

"The Commons also propose and desire to see the commission that is prepared for a lord high steward at these trials; and also the commissions in the earl of Pembroke's and lord Morley's cases."

"To this the Lords committees said, the high steward is but speaker *pro tempore*, and gives his voice as well as the other lords: This changeth not the nature of the court; and the Lords declared they have power enough to proceed to trial, though the king should not name an high-steward.

"This seemed to be satisfaction to the Commons; provided it were entered in the Lords Journals, which are records.

"The Commons also propose and desire to know, what resolution the Lords have taken concerning the bishops being, or not being, at the trials of these lords.—The Commons say, that, in the earl of Strafford's case, the Lords acquainted the Commons, that the bishops intended not to be at the trials.—The Commons think it necessary to know, whether the Lords intend any new forms in trials upon impeachment.—They conceive, all trials upon impeachments in parliament have been by the temporal lords only."

Ordered, That the trials of the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasis now prisoners in the Tower, which were appointed to begin

to morrow morning in Westminster hall, be, and are hereby, put off till further order; and that timely notice shall be given to the said lords of such further day as shall be appointed for that purpose.

Ordered, That the clerk of the crown do attend the lord chancellor this afternoon, with copies of the commission for the lord high steward, in order to the Trials of these lords.

It is declared and ordered, by the Lords spiritual and temporal in parliament assembled, That the office of a High Steward, upon trials of Peers upon impeachments, is not necessary to the House of Peers; but that the Lords may proceed in such trials if a high Steward be not appointed, according to their humble desire.

May 13.

The lord president reported, "That the committee of both Houses have met this morning; and discoursed in the first place in the matter of a Lord High Steward, and have perused former commissions for the office of High Steward; and propose from the committee, that the order being entered in the Journal of the House of Lords; viz. That an office of an High Steward, upon trials of Peers upon impeachments, is not necessary to the House of Peers; but that the Lords may proceed in such trials, if an High Steward be not appointed, according to their humble desire: There may be a commission for an High Steward to bear date after the said order, so as the words in the commissions perused may be thus changed; viz. instead of ["*ac pro eo quod Officium Senescalli Angliæ cujus Præsentia in hac parte requiritur, ut accepimus, jam vacat*"] may be inserted ["*ac pro eo quod procures et Magnates in parlamento nostro assemblat. Nobis humiliter supplicaverunt, ut Senescallum Angliæ pro hac vice constituere dignaremur*"]."

His lordship further reported, "That, in the next place, the Commons proposed, that they might be satisfied in what they proposed yesterday concerning the bishops being present at the trials of the lords impeached.—To which the Lords making answer, That it belongs not to the Commons to be concerned in the constituting parts of the court upon such trials; but that the judgment of this matter belongs entirely to the Lords; and when they have judged it, the Commons cannot alter it, and therefore should not debate it.—Upon which, the Commons acknowledged, that judgment after trial is in the Lords; but their lordships are not to give judgment unless the Commons demand it.—And the Commons desire to know whether the lords will proceed in these trials as their lordships did anciently; for, if the bishops should sit upon these trials, and the Commons should not demand judgment, as being dissatisfied with their being there, it may be the Commons may proceed by bill.—To which the Lords made answer, That, after the evidence is fully heard, they are bound to give judgment of condemnation or acquittal.—But this being a matter of judicature, the Lords de-

clared, that they would impose silence upon themselves, and debate it no further.—The Commons further desired to know, whether the bishops shall be allowed to vote upon the validity of the pardon of the earl of Danby; for they account that no preliminary, but the very essence of the trial."

Which report being ended; and the first part thereof, concerning the Lord High Steward, being agreed to; the House entered into debate concerning the second part thereof, in relation to the lords the bishops. After a long debate thereof; The question was proposed, "Whether the lords spiritual have a right to stay in court, in capital cases, till such time as judgment of death comes to be pronounced?"

Then, this previous question being put, "Whether this question shall be now put?" It was resolved in the affirmative.

Then the main question was put, (viz.) "Whether the lords spiritual have a right to stay in court, in capital cases, till such time as judgment of death comes to be pronounced?" Which was resolved in the affirmative.

"*Dissentientibus*, Derby, Winchester, Essex, Shaftsbury, Pr. Clare, Huntingdon, Herbert, Stamford, Manchester, Delamer, Mulgrave, Kent, P. Wharton, Howard, J. Lovelace, Rockingham, Bedford, Salisbury, North and Grey, Halifax, Grey."

May 16.

The Lord President reported, "That the Lords' committees have met the committee of the House of Commons this morning; who, communicated to their lordships, That yesterday they reported to their House the resolution of the House of Peers, with the explanation of it, which the Lords had acquainted them with concerning the Lords spiritual.—Upon consideration whereof, their House gave them as an instruction to insist, That the Lords spiritual ought not to have any vote, in any of the proceedings upon the impeachments against the Lords in the Tower.—And the committee declared further, That they know not how to proceed in capital matters before a new court. To which the Lords answering, That they had no instructions, power, nor allowance, from the House, to debate concerning this matter; desired that if they had any other proposals to make, they would do it; and that the Lords were ready to debate them.—To this, the Commons answered, That they think it most proper that the propositions already made should be determined before they make any new ones."

After consideration had thereof; the question was put, "Whether Thursday next shall be appointed, to begin the Trials of the Five Lords who are prisoners in the Tower?" And it was resolved in the affirmative.

After which resolution passed, the Lords spiritual asked the leave of the House, that they might withdraw themselves from the Trials of the said lords, with the liberty of entering their usual Protestation.

Ordered, That this resolution of the House, and desire of the Lords spiritual, be communicated to the committee of the House of Commons, to-morrow morning.

May 17.

The Lord President reported, "That the Lords committees have met the committee of the House of Commons this morning, and gave them an account of the resolution of the Lords passed yesterday, concerning the trials of the Five Lords in the Tower, and also of the desire of the Lords spiritual, to withdraw themselves from the trials of those lords, reserving the liberty of entering their usual protestation; and delivered to them a signed copy of what is entered in the Journal of the House of Peers concerning this matter; which is all they had in command.

"To which the Commons answered, That the vote of the House of Commons, which they acquainted the Lords with yesterday, concerning the bishops, extends to the earl of Danby, as well as the said Five Lords; whereas the Lords' vote relates only to the Five Lords: And therefore they desired to know what answer the Lords give as to the earl of Danby.—They further objected, that they conceived that their vote was to the right of the thing; and that the bishops have no right to be at any one vote in any capital case; and they conceived the earl of Danby's case to be a capital case, as well as the cases of the other Five Lords; and that, if the bishops may have leave to withdraw, it implies a right, which if they have it is a new court, which the Commons cannot admit of.—The Lords did then let them know, there is no day yet appointed for the trial of the earl of Danby; and that the Lords spiritual will be absent at all the parts of the trials of the Five Lords; and that the protestation they now desire to enter will be the same as in the earl of Strafford's case. Then the Commons said, they could not proceed to treat of any other proposal, till such time as this business about the court be settled."

Ordered, by the Lords spiritual and temporal in parliament assembled, That the committee for privileges are hereby appointed further to search for and consider precedents and ways of proceeding on the trials and judicature of Peers; and to advise of directions and methods fit to be observed therein, for the preservation of order and regularity in the trials of the lords now appointed; and all circumstances usually occurring in such trials; and to report to this House on Monday next; and for this end to sit this afternoon.

May 19.

The Lord President reported, "That the Lords' committees have met this morning with the committee of the House of Commons; where the Commons acquainted the Lords, that they had reported to their House the vote of this House, and the desire of the Lords spiritual, which occasioned the House of Com-

mons to give this further instruction to their committee; viz. To insist on the former vote of their House; that the Lords spiritual ought not to have any vote in the proceedings against the lords in the Tower; and when that matter shall be settled, and the method of proceedings adjusted, their House shall be then ready to proceed upon the trial of the pardon of the earl of Danby, against whom the House of Commons hath already demanded judgment; and afterwards to the trials of the Five Lords in the Tower. Upon which, the Lords told them, they had no authority to debate this matter.

"The Commons then further said, That the Lords' resolution, which was offered, was no answer to their proposition, which comprehended the earl of Danby as well as the Five Lords; and the Lords' answer relates only to the Five Lords: besides, the Lords' answer was doubtful; for it appears, that the bishops asked leave to be absent, but it appears not that it was granted; and if they may ask leave, and it be not granted, then consequently the bishops must sit in court at the trials. The Commons conceive, that the bishops absenting themselves by way of leave is a strong implication of a right asserted, which they cannot allow can ever be maintained; and think there is the same reason for the bishops being absent from the trial upon the pardon, as at the trial of the other Five Lords; and that the naming of a day for the trial of the Five Lords, before the trial of the pardon of the earl of Danby, against whom the Commons have already demanded judgment, is a putting that last, which they desired should be first.

"To which the Lords told them, They were not empowered to debate; but would report these matters to their House.

"The Commons hereupon replied, They are ready to go on; and that, for want of these trials, all public business stands still: but the Lords seem to lay the stop at the Commons' door, by naming a day, which they conceive ought not to have been appointed before the methods be considered; for the Lords have not answered the Commons in matter of right, which is necessary first to be adjusted; and they desire your resolution as to that matter; for they conceive they have no right: And the Lords may as well make the judges part of their court, as the bishops, in this point.

"The Commons will give no disturbance to the ancient judicature; for they own that to be sacred. And they conceive they have a right to know before what court they shall appear; and they hope the Lords will consider of their having appointed a day before the methods be considered, and will give them leave to wonder at it."

Ordered, by the Lords spiritual and temporal in parliament assembled, That Edmund Warcupp, esq. one of the deputy lieutenants and justice of peace for the county of Middlesex, who, by Order of this House, hath searched the house of viscount Stafford, called or known by the name of Tarthall, and seized some papers

there, do forthwith transmit the said papers to the secret committee of the House of Commons; and for so doing, this shall be a sufficient warrant.

The Lord Privy Seal reported, "That the committee of privileges have met, and considered of the methods and rules to be observed at the trials of the Five Lords in the Tower; which are offered to the consideration of the House."

Ordered, by the Lords spiritual and temporal in parliament assembled, That no lord of this House shall visit any of the lords now prisoners in the Tower, without leave of this House first had on that behalf.

May 20.

Ordered, That Tuesday next, being the 27th day of this instant May, be appointed for the Trial of the Five Lords now prisoners in the Tower; viz. William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Wardour, and John lord Belasis.

Ordered, That this House will take into consideration the report made from the Lords' committees for privileges, concerning the methods of proceedings to be observed in order to the trials of the lords now prisoners in the Tower, to-morrow morning, the first business.

May 21.

Upon reading the Report made from the Lords' committees for privileges, concerning the methods of proceedings to be observed at the trials of the lords in the Tower: It is ordered, That the Lords' committees for perusal of the Journal Book be, and are hereby, appointed to make an abstract of so much thereof as is necessary to be communicated to the House of Commons; the rest to be for the use of the Lord Chancellor; and to report to this House to-morrow morning.

May 22.

The Lord Privy Seal reported, "That the Committee for the Journal Book, which was appointed to make an abstract out of the Report concerning the methods of proceedings to be observed at the trials of the lords in the Tower, of what is fit to be communicated to the House of Commons, and what is requisite to be for the direction of the Lord Chancellor, have met, and considered thereof, as follows:

"The Preface of the Report to stand; viz.

"The Lords Committees for Privileges, to whom it is referred to consider of precedents and ways of proceeding in the trials and judicature of the Peers, have perused the Journals of this House; in which the proceedings in order to the trials of the earl of Strafford and the earl of Pembroke are entered; and, upon consideration had thereof, have ordered to report, that the method of proceedings agreed to by the House of Peers on the 22nd of March, 1677, in order to the trial of the earl of Pem-

broke, be observed in order to the trials of the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasyse; save only that the attendance of the clerk of crown in the King's-bench is not to be required, nor any place to be prepared at the bar for the king's counsel; and that the additional rule for the going of the eldest sons of peers between the House of Peers above stairs and Westminster-hall, made the 9th of this instant May, be observed: Also,

"The Lord Chancellor is to observe rules and directions, which are already upon the Journals; of which he is to have an extract, and therefore not requisite to be entered again here.

"That which is proper to be communicated is as follows:

"That the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasyse, and every of them, who are to be brought to their trial in Westminster-hall, shall have warrants for such witnesses as will not come without (affidavit being first made thereof), excepting such as are members of the House of Commons, and such persons as stand charged with the same treason as the said lords are charged with; and that such witnesses as any of the said lords at their respective trials shall produce for their defence shall not be examined upon oath in their case; but may be examined upon oath if the members of the House of Commons do desire it, on their behalf; and if the said lords, or any of them, do re-examine the said witnesses, it is to be upon the same oath.

"That the Lieutenant of the Tower is to return the warrant of this House.

"That the said Lords, being brought to the bar by the Lieutenant of the Tower, are to kneel until the Lord High Steward command them to arise; and then he is to let them know, 'That they are this day to answer to the accusation of high treason, wherewith they stand charged, in the name of the Commons now assembled in parliament, and in the name of all the Commons of England; and that this day they are to receive their trials for their lives.'

"That the whole Impeachment against them is to be read; and then their Answers: which being done, the Lord High Steward is to tell the Commons, 'That now they may go on with their evidence.'

"Then the Lord High Steward is to declare, 'That now the court is proceeding to hear the evidence;' and desire the Peers to give attention.

"If the said Lords shall demand counsel, the Lord High Steward is to let them know, 'That, during the time that the members of the Commons do manage their evidence in matter of fact, they (the said lords) are to use no counsel.'

"If any of the Peers, the members of the House of Commons that manage the evidence, or the prisoners, do desire to have any question asked; they must desire the Lord High Steward to ask the question.

"If any doubt doth arise at the trial, no debate is to be in the court, but the question suspended to be debated in this House.

"The Peers are to sit upon the trial but once a day, and not to sit past two o'clock.

"The members of the Commons to be set first, before the Peers come.

"None to be covered at the trial but the Peers.

"That a private place be made, to put offenders safely in.

"That the place between the prisoners and the woosack be clear.

"That such peers, at the trial of the said lords, who at the instance of the Commons shall be admitted witnesses, are to be sworn at the clerk's table, and the Lord High Steward to administer the oath, and to deliver their evidence in their own places.

"Those witnesses that are commoners are to be sworn at the bar by the clerk, and are to deliver their evidence there.

"The Oath which is to be given to the witnesses is this:

"The Evidence which you shall give, in the
"Trial concerning the Five Lords prisoners
"at the bar, shall be the truth, the whole
"truth, and nothing but the truth: So
"help you God, and the Contents of this
"Book."

"The said Five Lords may cross-examine witnesses, *viva voce*, at the bar.

"That notice be given to the lord mayor, aldermen, and sheriffs of the city of London, and likewise to the deputy lieutenants and justices of Middlesex, and the justices of the peace of the city of Westminster, to take care for the safe-guarding of the gates and places, thereby to prevent the concourse of people resorting to Westminster during the time of the trial of the said lords."

This Report was read, and agreed to; and it is ordered, That it be communicated to the committee of the House of Commons, by the lords committees at their next meeting.

A Message was sent to the House of Commons, to communicate to the Commons the Order of this House, for appointing Tuesday next for the trials of the Five Lords in the Tower.

Ordered, That the constable of his majesty's Tower in London, or, in his absence, the lieutenant thereof, be, and is hereby, required to bring William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel de Wardour, and John lord Bellasis, now prisoners there, to the bar of this House, in Westminster-hall, on Tuesday the 27th day of this instant May, at nine of the clock in the forenoon.

May 28.

The Lord President reported, "That the Lords committees have met this morning, with the committee of the House of Commons; and have delivered to them a copy of the methods of proceedings agreed on yesterday

in order to the Trial of the Five Lords, and appointed to be communicated to them; their lordships hoping that therein all things were adjusted which are necessary to the said Trial.

"To which, the Commons desired to know, Whether the paper now delivered, be delivered as propositions to be debated, or as rules not to be altered, which if so, seems as if the Lords would pass by all that they have proposed; and till they have an answer to the more material propositions they have made, they can say nothing to the minute circumstances in this paper; and that the Lords are pleased by this paper to answer several things not asked, but not to answer what they do desire.

"Then the Lords did let them know, that their lordships are not instructed to debate, but shall acquaint the House with what they insist on; and that the Lords meet on great disadvantage, if they should not have liberty to propose, as well as the Commons; and conceive that there is no imposition put upon the Commons by this paper; but the Commons may make objections, and the Lords may debate them: And that the Lords expect not any present answer to the paper; but hope they will receive it as the Lords have received their propositions.

"To this the Commons replying, That Tuesday next, set for the said Trial, growing near, it will take up longer time to adjust these propositions than till Tuesday; and some material objections may be made against them: However, they shall receive this paper as propositions; to which they intend not to give any answer till they have an answer from the Lords to their former proposition concerning the Lords spiritual; and that they think it not to be according to the good correspondence that ought to be between the committees of both Houses, for the Lords to appoint a day of trial without adjusting the time with them, having formerly told them that that should be the last thing to be agreed on.

"The Commons further added, That they do not quit their former proposition, of the earl of Danby's being tried before the Five Lords; and desired to know, whether the lords intend to proceed to the trial of the Five Lords on Tuesday next, though the Commons consent not: And desired also, that the Lords would report, That the Commons desire to know, whether they may expect any answer to their former proposition, concerning the Bishops; without which, the meetings of the committees will be useless; and one meeting more may put a period to this committee."

Upon consideration had of this Report, the House made these resolutions following: The question was put, "Whether it shall be an instruction to the lords committees, appointed to meet the committee of the House of Commons, to let them know, that their lordships are not impowered to give any other answer than what is already given, concerning the Lords spiritual?" And it was resolved in the affirmative.

"*Dissentientibus*, Buckingham, Shaftesbury, Pr. Derby, Winchester, Huntingdon, Bedford, Clare, Westmoreland, Stamford, Strafford, Herbert, F. Grey, Rochester, Say and Seale, R. Eure, Rockingham, Delamer, Pagett, Mulgrave, Howard, J. Lovelace, Burlington, North and Grey, P. Wharton."

Ordered, To let the Commons know, that the paper delivered this day contains the Orders of the House of Lords, *de bene esse*, preparatory to the Trials; yet such, that if the Commons have any thing to object, or to offer to be added to them, the Lords will consider thereof, and do what shall be reasonable.

The question being put, "Whether it shall be an instruction to the Lords committees, appointed to meet with the committee of the House of Commons, to let them know, that there occur to the Lords difficulties in the case of the earl of Danby, which are not in the case of the other Five Lords; and that therefore the Lords have resolved to proceed first to the Trial of the Five Lords?" And it was resolved in the affirmative.

May 26.

The Lord President reported, "That on Saturday the Lords delivered to the Commons what was resolved and ordered the day before, touching the bishops being at the trial of the Five Lords; as also concerning the earl of Danby's trial; and likewise touching the paper containing the rules *de bene esse* to be observed by the Lords at the Trials; and told the Commons, that that was all they had in command to say.

"To which the Commons answered, That, since the Lords have not thought fit to give such satisfactory answers to the propositions formerly made by them as they required, they have received instructions from their House to give no answer to the propositions made by the Lords, till the Commons former propositions be answered.

"That the Lords committees met the committee of the House of Commons again this morning; where the Commons said, That they had received instruction this morning from their House, to propose to the Lords, Whether they be yet empowered to give any answer to the propositions already made by the Commons, touching the Lords spiritual, and the trial of the pardon of the earl of Danby; and to acquaint the Lords, that they cannot give any answer to the propositions made by their lordships preparatorily to the trial, until those matters be adjusted."

"To which the Lords answered, They are not yet empowered."

The messengers return with this answer: That the Commons will give a Free Conference, as is desired. The same Lords who managed the last Free Conference are appointed to manage this.

The House was adjourned, and the Lords went to the Conference; which being ended, the House was resumed.

Then the Lord President reported the effect of the Conference with the House of Commons; viz.

“The Commons have always desired, that a good correspondence may be preserved between the two Houses.

“There is now depending between your lordships and the Commons, a matter of the greatest weight; in the transaction of which, your lordships seem to apprehend some difficulty in the matters proposed by the Commons.

“To clear this, the Commons have desired this Conference; and by it, they hope to manifest to your lordships, that the propositions of the House of Commons, made by their committee, in relation to the Trial of the Lords in the Tower, have been only such as are well warranted by the laws of parliament and constitution of the government, and in no sort intrench upon the judicature of the Peers; but are most necessary to be insisted upon, that the ancient rights of judicature in parliament may be maintained.

“The Commons readily acknowledge, that the crimes charged upon the earl of Powis, viscount Stafford, lord Petre, lord Arundel of Wardour, and lord Bellasis, are of deep guilt, and call for speedy justice; but withal they hold any change in judicature in parliament, made without consent in full parliament, to be of pernicious consequence, both to his majesty and his subjects; and conceive themselves obliged to transmit to their posterity all the rights which of this kind they have received from their ancestors; and by putting your lordships in mind of the progress that has already been between the two Houses in relation to the proposition made by the Commons, and the reasonableness of the propositions themselves, they doubt not to make it appear, that their aim has been no other than to avoid such consequence, and to preserve that right; and that there is no delay of justice on their part; and, to that end, do offer to your lordships the ensuing reasons and narrative:

“That the Commons, in bringing the earl of Danby to justice, and in discovery of that execrable and traitorous conspiracy (of which the five Popish lords now stand impeached, and for which some of their wicked accomplices have already undergone the sentence of the law as traitors and murderers), have laboured under many great difficulties, is not unknown to your lordships.

“Nor is it less known to your lordships, that, upon the impeachment of the House of Commons against the earl of Danby, for High Treason, and other high crimes, misdemeanors, and offences, even the common justice of sequestering him from parliament, and forthwith committing him to safe custody was then required by the Commons, and denied by the House of Peers, though he then sat in their House, of which your lordships have been so sensible, that at a Free Conference, the 10th of April last, your lordships declared, “That it

“was the right of the Commons, and well warranted by precedents of former ages, that, upon an impeachment of the Commons, a peer so impeached ought of right to be ordered to withdraw, and then to be committed:” And had not that justice been denied to the Commons, a great part of this session of parliament, which hath been spent in framing and adjusting a bill for causing the earl of Danby to appear and answer that justice from which he was fled, had been saved, and had been employed for the preservation of his majesty’s person and the security of the nation, and in prosecution of the other five lords; neither had he had the opportunity of procuring for himself that illegal pardon, which bears date the 1st of March last past, and which he hath now pleaded in bar of his impeachment, nor of wasting so great a proportion of the treasure of the kingdom, as he hath done since the Commons exhibited their Articles of impeachment against him.

“After which time thus lost, by reason of the denial of that justice which of right belonged to the Commons upon their impeachment, the said bill being ready for the royal assent, the said earl then rendered himself, and, by your lordships order of the 16th of April last, was committed to the Tower; after which, he pleaded the said pardon; and, being pressed, did at length declare, he would rely upon and abide by that plea: Which pardon pleaded, being illegal and void, and so ought not to bar or preclude the Commons from having justice upon their impeachment; they did thereupon, with their Speaker, on the 5th of May instant, in the name of themselves and all the Commons of England, demand judgment against the said earl upon their impeachment; not doubting but that your lordships did intend, in all your proceedings upon the impeachment, to follow the usual course and methods of parliament.

“But the Commons were not a little surprised by the Message from your lordships, delivered on the 7th of May, thereby acquainting them, that as well the Lords spiritual as temporal had ordered, that the 10th of May instant should be the day for hearing the earl of Danby to make good his plea of pardon; and that, on the 13th of May, the other Five Lords impeached should be brought to their Trial; and that your lordships had addressed to his majesty, for naming of a Lord High Steward, as well in the case of the earl of Danby, as the other Five Lords.

“Upon consideration of this said Message the Commons found, that the admitting the Lords spiritual to exercise jurisdiction in these cases, was an alteration of the judicature in parliament, and which extended as well to the proceedings against the Five Lords, as the earl of Danby; and if a Lord High Steward should be necessary upon trials on impeachments of the Commons, the power of judicature in parliament upon impeachments might be defeated by suspending or denying a commission to constitute a Lord High Steward.

“ And that the said days of trial appointed by your lordships were so near to the time of your said Message, that these matters and the methods of proceedings upon the trials could not be adjusted by conference betwixt the two Houses before the days so nominated; and consequently the Commons could not then proceed to trial, unless the zeal which they had for speedy judgment against the earl of Danby (that so they might proceed to the Trial of the other Five Lords), should induce them at this juncture both to admit the enlargement of your lordships jurisdiction, and to sit down under these or any hardships (though with the hazard of all the Commons power of impeaching for time to come), rather than the Trial of the Five Lords should be deferred for some short time whilst these matters might be agreed on and settled.

“ For reconciling differences in these great and weighty matters, and for saving that time which would necessarily have been spent in debates at conferences betwixt the two Houses, and for expediting the Trials, without giving up the power of impeachments, or rendering them ineffectual; the Commons thought fit to propose to your lordships, that a committee of both Houses might be appointed for this purpose; at which committee (when agreed to by your lordships) it was first proposed, that the time of trial of the lords in the Tower should be put off till the other matters were adjusted; and it was then agreed, that the proposition as to time of trial should be the last thing considered; and the effect of this agreement stands reported upon your lordships books.

“ After which, the Commons communicated to your lordships, by your committee, a vote of theirs, viz. That the committee of the Commons should insist upon the former vote of their House, ‘ That the Lords spiritual ought not to have any vote in any proceedings against the lords in the Tower;’ and that, when that matter should be settled and the methods of proceedings adjusted, the Commons would then be ready to proceed upon the Trial of the Pardon of the earl of Danby, against whom they had before demanded judgment, and afterwards to the Trial of the other Five Lords, in the Tower; which vote extended, as well to the earl of Danby, as the other Five Lords; but the Commons have as yet received nothing from your lordships towards an answer of that vote, save that your lordships have acquainted them that the bishops have asked leave of the House of Peers that they might withdraw themselves from the Trial of the said Five Lords, with liberty of entering their usual protestation.

“ And though the Commons committee have almost daily declared to your lordships committee, that that was a necessary point of right to be settled before the trials, and offered to debate the same; your committee always answered, That they had not any power from your lordships either to confer upon, or to give any answer concerning, that matter.

“ And yet your lordships, without having

given the Commons any satisfactory answer to the said vote, or permitting any conference or debate thereupon, and contrary to the said agreement, did on Thursday the 22d of May, send a message to the Commons, declaring that the Lords spiritual as well as temporal had ordered that the 27th of this instant May be appointed for the Trial of the Five Lords.

“ So that the Commons cannot but apprehend, that your lordships have not only departed from what was agreed on, and in effect laid aside that committee which was constituted for preserving a good understanding betwixt the two Houses, and better dispatch of the weighty affairs now depending in parliament; but must also needs conclude, from the said message and the vote of your lordships on the 14th of May, that the Lords spiritual have a right to stay and sit in court till the court proceeds to the vote of Guilty or Not Guilty; and from the Bishops asking leave (as appears by your lordships books two days after your said vote), that they might withdraw themselves from the Trial of the said Five Lords, with liberty of entering their usual protestation; and by their persisting still to go on and give their votes in proceedings upon the impeachments, that their desire of leave to withdraw at the said Trial is only an evasive answer to the beforementioned vote of the Commons, and chiefly intended as an argument for a right of judicature in proceedings upon impeachments, and as a reserve to judge upon the earl of Danby’s plea of a pardon; and upon these and other like impeachments, although no such power was ever claimed by their predecessors; but is utterly denied by the Commons. And the Commons are the rather induced to believe it so intended because the very asking leave to withdraw, seems to imply a right to be there, and that they cannot be absent without it. And because by this way they would have it in their power, whether or no, for the future, either in the earl of Danby’s case or any other, they will ever ask leave to be absent; and the temporal lords a like power of denying leave, if that should once be admitted necessary: the Commons therefore are obliged not to proceed to the Trial of any of the lords the 27th of this instant May, but to adhere to their aforesaid vote: and for their so doing, besides what hath been now and formerly by them said to your lordships, do offer you these reasons following:

“ 1. Because your lordships have received the earl of Danby’s plea of pardon, with a very long and unusual protestation; wherein he hath aspersed his majesty with false suggestions, as if his majesty had commanded or countenanced the crimes he stands charged with; and particularly, suppressing and discouraging the discovery of the Plot, and endeavouring to introduce an arbitrary and tyrannical way of government; which remains as a scandal upon record against his majesty, tending to render his person and government odious to his people, against which it ought to

be the first and principal care of both houses to vindicate his majesty, by doing justice upon the said earl.

"2. The setting up a pardon to be a bar of an impeachment defeats the whole use and effect of impeachments. And should this point be admitted, or stand doubted, it would totally discourage the exhibiting any for the future; whereby the chief institution for the preservation of the government (and consequently the government itself) would be destroyed: And therefore the case of the said earl, which in consequence concerns all impeachments whatever, ought to be determined before that of the said Five Lords, which is but their particular case. And, without resorting to many authorities of greater antiquity, the Commons desire your lordships to take notice (with the same regard they do) of the declaration which that excellent prince king Charles 1. of blessed memory, made in this behalf, in his Answer to the nineteen Propositions of both Houses of parliament; wherein, stating the several parts of this regulated monarchy, he says, "The King, the House of Lords, and the House of Commons, have each particular privileges;" and among those which belong to the king, He reckons power of pardoning; after the enumerating of which, and other his prerogatives, his majesty adds thus: "Again, that the prince may not make use of the high and perpetual power, to the hurt of those for whose good he hath it, and make use of the name of public necessity, for the gain of his private favourites and followers, to the detriment of his people, the House of Commons (an excellent conservator of liberty, &c.) is solely entrusted with the first propositions, concerning the levies of monies, and the impeaching of those, who, for their own ends, though countenanced by any surreptitiously-gotten command of the king, have violated that law which he is bound (when he knows it) to protect, and to the protection of which they were bound to advise him, at least not to serve him in the contrary; and the Lords, being trusted with a judicatory power, are an excellent screen and bank between the prince and people, to assist each against any encroachments of the other, and by just judgments to preserve that law, which ought to be the rule of every one of the three, &c. Therefore the power legally placed in both Houses, is more than sufficient to prevent and restrain the power of tyranny, &c."

"3. Until the Commons of England have right done them against this plea of pardon, they may justly apprehend that the whole justice of the kingdom, in the case of the five Lords, may be obstructed and defeated by pardons of like nature.

"4. An Impeachment is virtually the voice of every particular subject of this kingdom, crying out against an oppression by which every member of that body is equally wounded; and it will prove a matter of ill consequence, that the universality of the people should have occasion ministered and continued to them, to be

VOL. VII.

apprehensive of utmost danger from the crown, from whence they of right expect protection.

"5. The Commons exhibited Articles of Impeachment against the said earl, before any against the other five Lords, and demanded judgment upon those Articles; whereupon your lordships having appointed the Trial of the said Earl to be before that of the other five Lords: Now your lordships having since inverted that order, gives a great cause of doubt to the House of Commons, and raises a jealousy in the hearts of all the Commons of England, that, if they should proceed to the trial of the said Five Lords in the first place, not only justice will be obstructed in the case of those lords, but that they shall never have right done them in the matter of this plea of pardon, which is of so fatal consequence to the whole kingdom, and a new device to frustrate public justice in parliament.

"Which reasons and matters being duly weighed by your lordships; the Commons doubt not but your lordships will receive satisfaction concerning their propositions and proceedings; and will agree that the Commons ought not, nor can, without deserting their trust, depart from their former Vote, communicated to your lordships, That the Lords spiritual ought not to have any Vote in any proceedings against the lords in the Tower: And when that matter shall be settled, and the method of proceedings adjusted, the Commons shall then be ready to proceed upon the trial of the pardon of the earl of Danby (against whom they have already demanded justice,) and afterwards to the trial of the other five Lords in the Tower."

May 26, p. m.

The House took into consideration the Report of the Conference with the House of Commons this morning. And, for the more free debate, the House was adjourned during pleasure. The House was resumed. And, after a long debate,

This question was proposed, "Whether this debate shall be adjourned till 8 of the clock to-morrow morning?" Then this previous question was put, "Whether this question shall be now put?"

It was resolved in the affirmative. The main question was put; and it was resolved in the affirmative.

May 27.

The Narrative and Reasons delivered at the Conference yesterday with the House of Commons were again read. And, after a long debate, the Vote of this House, dated the 13th of May instant, and the explanation thereupon, dated the 14th instant, were read. And the question was put, "Whether to insist upon these Votes concerning the Lords spiritual?" And it was resolved in the affirmative.

"*Dissentientibus*, Buckingham, Huntingdon, Kent, Shaftesbury, Pr. Bedford, Winchester, Rochester, North and Grey, Suffolke, J. Lovelace, Townshend, Herbert, Grey, Stamford,

4 N

Say and Seale; Newport, Leicester, P. Wharton; Searsdale, Strafford; Derby, Delamer, Howard, Pagett, Clare, Salisbury, Fauconberg, Windsor."

HOUSE OF LORDS, October 25, 1680.

Ordered, That all such books, papers, and informations or depositions, relating to the late horrid Plot and Conspiracy, which have been by his majesty's order transmitted from his privy council board to this House, shall be perused by the lords committees for examination of matters relating to the said horrid Plot; whose lordships are hereby empowered to transmit to the House of Commons such of them as they shall judge necessary or useful for that House, in order to the trial of the Lords in the Tower; as also such other examinations as their lordships of the said Committee shall take relating thereunto.

HOUSE OF COMMONS, Nov. 9, 1680.

Ordered, That the Committee appointed to inspect the Journals of the two last parliaments, and to make a report of their proceedings, as well relating to the Popish Plot, as of the Impeachment against the Lords in the Tower, do present their report on Thursday morning next, in writing.

November 10.

Resolved, *nem. con.* That this House will proceed in the prosecution of the Lords in the Tower; And will forthwith begin with William viscount Stafford.

Ordered, That sir William Jones be added to the Committee, appointed to inspect the Journals of the two last parliaments, relating to the Popish Plot, and the impeachments of the Lords in the Tower: And the said Committee is to sit *de die in diem*.

November 12.

Resolved, That a Message be sent to the Lords to acquaint them with the Resolution of this House to proceed to the Trial of the Lords in the Tower; and forthwith begin with William viscount Stafford; and to desire their lordships to appoint a convenient day for the Trial of the said William viscount Stafford: And likewise to desire their lordships, That the Lords in the Tower may be confined, and kept from holding correspondence with one another, as persons impeached and committed for High-Treason by law ought to be: And that sir William Jones do go up with this Message to the Lords.

Sir Francis Winnington reported, and delivered in at the clerk's table, the abstracts of the proceedings of the two last parliaments, as well relating to the Popish Plot, as to the Impeachments against the Lords in the Tower.

Ordered, That the Report, now delivered in, be read to-morrow morning.

HOUSE OF LORDS, Nov. 12.

A Message was brought from the Commons, by sir William Jones and others:

To acquaint their lordships with their resolution to proceed to the Trial of the Lords in the Tower, and forthwith to begin with William viscount Stafford; and to desire their lordships to appoint a convenient day for the Trial of the said William viscount of Stafford. Also to desire the Lords in the Tower may be confined, and kept from holding correspondence with one another, as persons impeached and committed for High-Treason by law ought to be.

Hereupon the Lords made these ensuing Orders following:

"Ordered, That Tuesday the 30th day of this instant November be, and is hereby, appointed for the trial of William viscount of Stafford, now prisoner in the Tower, upon the impeachment of the House of Commons.

"Ordered, That the lieutenant of his majesty's Tower of London be, and is hereby, required to take care and order, That William earl of Powis, William viscount Stafford, William lord Petre, Henry lord Arundel of Warder, and John lord Bellasis, prisoners under his charge for high treason, be so confined and kept from holding correspondence with one another, as persons impeached and committed for high treason by law ought to be."

The Answer returned by the messengers was: That the Lords have ordered, That the lords in the Tower shall not have any correspondence one with another. Also that the Lords have appointed, That Tuesday come fortnight is appointed for the trial of the lord viscount Stafford.

Ordered, That the lords with white staves do attend his majesty, to let him know from this House, "That they have appointed to have William viscount Stafford brought to his trial on Tuesday the 30th of this present November, in Westminster Hall, upon the Impeachment of the House of Commons against him;" and humbly to desire his majesty, "That he will be pleased to appoint a Lord High Steward for the purpose aforesaid, to continue during the said trial."

November 13.

The Lord Chamberlain reported, "That his majesty will appoint a Lord High Steward, for the trial of the lord viscount Stafford."

November 16.

Upon reading the humble Petition of William viscount of Stafford;

"Shewing; That he received, on Friday night last, an order, That his trial was by their lordships appointed to be on the 30th of this month. He doth most humbly beseech their lordships, to command all the peers that are absent to attend upon their lordships at his trial. He doth likewise most submissively shew unto their lordships, that Mr. Ralph Lawson is now detained at Rye, though an Habeas Corpus be sent; for to bring him to town, from the Court of King's Bench, which is not obeyed; and that he is so necessary for his lordship's trial, that he is no ways able to make his just

defence before their lordships without him; his lordship not knowing the names of several of his witnesses; and for other reasons belonging unto his trial. Likewise humbly sheweth, that he fears that he can no way have his witnesses so soon in town. Therefore, with submission, most humbly beseecheth their lordships, to grant him some days longer for his trial, and to grant him an order for his witnesses to appear; and to assign him Mr. Wallope, Mr. Saunders, and Mr. Hunt, to be of his counsel."

Hereupon the House made the following Orders:

"It appearing, by the petition of the lord viscount of Stafford, now a prisoner in the Tower, and shortly to come upon his trial upon the impeachment of the House of Commons, That Mr. Ralph Lawson, who is a person necessary for his lord's defence at his trial, is detained prisoner at Rye, and that an Habeas Corpus hath been issued for bringing him up, which hath not been obeyed: it is this day ordered, by the Lords Spiritual and Temporal in parliament assembled, That his majesty's writ of Habeas Corpus in due form be forthwith issued, for bringing up the said Ralph Lawson, in order to the service aforesaid."

"Upon reading of the petition of the lord viscount of Stafford, praying (among other things) that he may have an order for witnesses to be made use of in his lordship's defence upon his trial, now appointed: it is ordered, by the Lords Spiritual and Temporal in parliament assembled, That the clerk of the parliaments shall issue out an order, or orders, for summoning such persons as the said viscount Stafford shall from time to time send in the names of, to be summoned as witnesses for the purpose aforesaid."

Ordered, That Mr. Wallop, Mr. Saunders, and Mr. Hunt, be, and are hereby, at the desire of the lord viscount Stafford, now prisoner in the Tower, assigned to be of counsel for his lordship, in order to his defence in matters of law upon his trial upon the Impeachment of the House of Commons, whereby he is charged with high treason; and that the said Mr. Wallop, Mr. Saunders, and Mr. Hunt, may have free access to the said viscount Stafford for that purpose.

Sir Timothy Baldwin delivered in the Information which he had taken of William Lewis, by order of this House; which Information was in the presence of the said William Lewis read; who acknowledged the same to be true.

The contents of which Information is as followeth:

"The Information of WILLIAM LEWIS, sworn before the House of Peers, this 13th of November, 1680.

"Who saith, That, coming out of sir John Morton's service, and being acquainted from his childhood with one Walter Jones, a priest, sometimes belonging to Wild-house, he applied himself to the said Jones, to help him to a service; who carried this informant to Grove's

house, at the Golden Ball in York Street, in Covent Garden; which Grove was since executed. And this informant and Mr. Jones went to the Wind-mill Tavern, in Bridges Street, which was about the time when the last army for Flanders was upon raising, by the appointment of Grove; and thither he came also, and promised this informant all kindness in his power; desiring this informant to come to his house, which this informant often did. And after about four months intimate acquaintance with the said Grove, this informant told Mr. Jones, 'he had not been at confession a long time.' Upon which, he advised this informant to go to Mr. Harcourt, in Grove's house, where there was an altar up one pair of stairs. And, after this informant had made his confession to Mr. Harcourt, Grove told this informant, 'that if he would be ruled by him the said Grove, he this informant should be made for ever.' Whereunto this informant replied, 'It was possible he would.' And then the said Grove took up a pistol, which lay upon the left hand of the altar; and said, 'This is that which must do the business.' During which discourse, the said Harcourt, Fenwick, the said Jones, and Pickering, with others, who made up about the number of seven, turned their backs, as if they would not take notice of the discourse aforesaid; and then the said Grove told this informant, 'that he would not tell what the business was, until this informant had taken the Sacrament to be secret:' which this informant then took, the said Grove and Pickering taking the Sacrament at the same time. Which Sacrament being over, the altar, chalice, and other materials belonging to the service, were taken down; and so the persons aforesaid sat down about the table in the same room. And then Grove said to this informant, 'You have taken the Sacrament of secrecy; and so have we;' meaning himself and Pickering. This informant replied, 'Yes;' promising to be secret. Whereupon the said Grove further said, 'What I desire you to effect with me is, to kill the king; and you shall venture no further than I and Pickering.' This informant answered, 'Kill the king! for what?' Then all or most of the company then present answered, 'To kill the king, being a heretic, or any other heretic, to propagate the Roman Catholic religion, is no sin.' And then they proceeded to make great promises of large gratuities to this informant, so as he would venture therein as they did; and they did intimate 1,000*l.* at the least, and that the best persons in England would engage for it. And asked this informant, 'If he knew the lord Peters and the lord Stafford?' To which this informant answered, 'He did.' Then Grove scratched his head, seeming a little concerned at this informant's knowledge of those two lords. Then they asked, 'Whether this informant knew the lord Arundel, the lord Powis, and the lord Bellasis?' To which this informant answered, 'He did not.' And after some other discourse to the same effect, the company parted;

and Grove desired this informant to send to him where he should meet him; and Jones did, after the meeting aforesaid, say, 'That Kelly was one of the number aforesaid.' The next day this informant sent to Grove, to come to him to a tavern near his own house; and thence went to the Plow Alehouse at Somerset Water Gate, where the said Jones met him. And this informant there told Grove, 'he had bought a horse, to go into the earl of Oxford's guards; and if he should omit his opportunity, and go along with him and miscarry, it would be to this informant's prejudice.' And thereupon the said Grove answered, 'that this informant need not fear any thing, but should be made a man for ever; for you shall have the best persons in England engage for what is promised unto you.' Whereto this informant replied, 'How shall I be sure of that? I have yet nothing but the bare word.' Whereupon the said Grove took a manual and his beads out of his pocket; and swore, 'a person of quality should come himself, and engage his honour that what was promised, should be performed;' and directed this informant 'the next day to meet him in Somerset House Chapel; and if that were not open, to walk about the coach houses, about nine in the morning;' which was in or about the month of May, 1678, being about three or four months before the Plot was discovered. And the said Grove then met this informant before the said coach houses, and took this informant with him to the said Plow Ale-house; saying, 'the person of quality would not come till the afternoon;' and desired this informant to meet him at four in that afternoon, in the same place; where he met this informant, and conducted him to the Piazza, or arched place, in the garden of Somerset House; and there was Harcourt, Fenwick, and Pickering, who walked with this informant and Grove about two hours; at which time a person came down the stairs, and asked, 'Which was the man?' To which Grove answered, 'This is he;' shewing this informant. Upon which, the said person, whom this informant knew to be the lord Arundel, though they pretended was the lord Bellasis; and the said lord Arundel took this informant from the company, and told this informant, 'that he was sensible that they had told this informant what he was to do.' Whereupon this informant asked his lordship, 'What he was to do?' Who replied in these words, 'You are to go along with Grove, to assassinate the king;' adding, 'you shall have 1,500*l.* paid you as soon as the business is effected; and if you will tarry in England, you shall have a commission in the Catholic army which is to be raised; otherwise you shall be safely transported into France, or where you please;' and thereupon gave this informant a guinea; and so my lord left this informant. And then Grove asked this informant, 'Whether he was satisfied?' And this informant answered, 'Yes;' and then repeated all the discourse that had passed between the said

lord and this informant. Upon which, Harcourt told this informant, 'that if he did not like going into France, he should go to Florence, where the said lord Arundel had great interest.' And this informant saith, That the lord Arundel he means by this information is squint-eyed, and hath a kind of a wart upon his nose. And this informant further saith, That as to what he gave the House of Peers an account of, as to Mrs. Elliot and Mr. Thompson, concerning some circumstances relating to the duke of York, and the five guineas received by Mr. Thompson's hand by this informant near St. James's House, this informant refers himself to the informations taken before Mr. Justice Rich. And further at present saith not.

"WILLIAM LEWIS."

Signed and acknowledged, in the presence of

TIMOTHY BALDWIN.

PR. RICH.

EDMOND WARCUPP.

November 23.

Ordered, That it be, and is hereby, referred to the lords committees for privileges, to advise and consider of what directions, rules, and methods, are fit to be observed, for preservation of order and regularity in the trial of the lord viscount Stafford, now to be tried, together with all such circumstances as occur in such trials, and make report unto the House.

November 26.

Ordered, That his majesty's surveyor general be, and is hereby, required to view the court and scaffolds prepared in Westminster hall, for the trial of the lord viscount Stafford, and see that they be strong and firm; and give this House an account thereof on Monday next, at nine of the clock.

Ordered, That the lord great chamberlain, or his deputy, be, and is hereby, desired to take care that the places in Westminster hall behind the lords, be kept for peeresses and their daughters, at their trial of the lord viscount Stafford.

November 27.

The House took into consideration the message brought yesterday from the House of Commons, "That this House would appoint a committee, to join with a committee of the House of Commons, for the adjusting the methods and circumstances in the trials of the lords in the Tower."

The question being put, "Whether a committee of this House shall be appointed, to meet with a committee of the House of Commons, to adjust the methods and circumstances of the trial of the lord viscount Stafford?" It was resolved in the affirmative.

Then the House named these Lords following, to be a committee to join with a committee of the House of Commons to adjust the methods and circumstances of the trial of the lord viscount Stafford.

E. of Salisbury, E. of Essex, E. of Aylesbury,

the lord Wharton, and the lord Howard of Esc. Or any three of them; to meet this afternoon, at three of the clock, in the inner Court of Wards.

A message was sent to the House of Commons, by sir Timothy Baldwyn and sir Samuel Clerke:

To let them know, that the Lords have appointed a committee of five Lords, to meet with a committee of the Commons to adjust the methods and circumstances of the lord viscount Stafford's trial; and they have appointed the five Lords to meet this afternoon, at three of the clock in the inner Court of Wards.

The messengers return with this answer:

That the Commons will give a meeting as is desired.

HOUSE OF COMMONS, November 29.

Sir William Jones reports, from the committee appointed to meet with the committee of Lords, for the adjusting of methods and circumstances relating to the Trials of the Lords in the Tower; that the said committee did meet on Saturday last: And that the committee of lords being asked, by the committee of this House, whether their lordships had any propositions to make to the said committee, touching the methods and circumstances to be had in the Trials of the Lords in the Tower; their lordships made answer, that the Lords had sent down a paper to this House, containing several propositions; and that the Lords committees knew of no other propositions.

That their lordships being asked, Whether the commission of the Lord High-Steward were drawn in the same manner as that in the last parliament was drawn; and whether the clause '*cujus presentia in hac parte requiritur*' were inserted; their lordships answered, that they could not give any account thereof; but that they would make report of the said proposition to the House of Peers; and would afterwards give answer to this committee therein.

That their lordships being asked, Whether they could give any assurance, that the lords spiritual would be absent at the trials, their lordships made answer, That they had no power from the House of Lords to give any account in that matter; but that their lordship; would report the same to the House of Peers; and return an answer to the said committee the next meeting.

And further, that the said committees had agreed to meet again at twelve of the clock this day.

Ordered, That the said committee do meet the committee of lords, at 12 of the clock this day.

Sir William Jones reports from the committee appointed to meet with a committee of the lords, for adjusting the methods and circumstances relating to the trials of the Lords in the Tower, That the committee having met, their lordships returned an answer to several propositions made by the committee of this House as followeth; viz.

That, as to the question, Whether the commission of the lord high steward be the same now, as it was the last parliament; the Lords committees answered, that the commission differs not from that which passed in the last parliament, otherwise than in that the name of the lord Stafford is inserted in this commission, in the places where the names of the Five Popish Lords impeached were inserted in the former commission.

That, as touching the Lords spiritual, Whether they would be present at the trial of the lord Stafford; their lordships have returned assurance, that the Lords spiritual are not to be present at the trial.

That their lordships acquainted the said committee, that the prisoner is to be brought to-morrow morning at ten of the clock.

That the said committee, having acquainted the Lords committees with the vote of this House touching their coming as a committee to the Trial of the lord Stafford, made a proposal to the Lords committees, taking notice of one of the rules sent down from the Lords; viz.

"That, when the Commons should ask any question in the trial, They should apply themselves to the Lord High Steward:" And that this committee made some exceptions thereunto; they taking the Lord High Steward not as a necessary part of the court, but only as the Speaker of the House of Lords; alledging, That, when the Commons speak to the court, they ought to say, "My Lords," not "My Lord, or Your Grace."

And that then the committees adjourned to 9 of the clock to-morrow morning.

Ordered, That the members of this House do sit together, without mingling with any other persons, in that place which is prepared for them, at the Trial of the lord Stafford: And Mr. Howard, captain of the yeomen of the guards, is desired to take care therein.

Ordered, That a committee be appointed forthwith to view the scaffold erected in Westminster-hall for the said Trial: And they are empowered to send for such persons as they shall see occasion to make use of in this service.

The House being informed, from the committee appointed to prepare evidence against the Lords in the Tower, That a certain person inhabiting in Shrewsbury, being summoned to appear as a witness in the Trials of the popish Lords in the Tower, did refuse so to do; and that it was not convenient, that his name should as yet be publicly known.

Ordered, That Mr. Speaker do issue out his warrant to the serjeant at arms attending this House, to bring in custody the said person, to be named to Mr. Speaker from the said committee, for his warrant for that purpose

November 30.

Ordered, That the serjeant at arms attending this House do go with his mace, and summon all the members of this House, that are in or about Westminster-hall, immediately to attend the service of the House.

HOUSE OF LORDS, November 30.

The earl of Essex reported from the committee of both Houses, "That yesterday their lordships agreed with the Commons, that the members of the House of Commons who are to manage the evidence against the lord viscount of Stafford, at his trial, should speak to the Lords as a House, and not to the Lord High Steward.

Upon which, it being moved, "That their lordships would consider, whether it be not fit to have his majesty's commission for a Lord High Steward read in this House, before an adjournment be made into Westminster Hall:" It was agreed to.

Then a Commission for appointing a Lord High Steward for the trial of the lord viscount of Stafford, was read (all the Peers standing up uncovered), as followeth:

CAROLUS R.

Carolus secundus, Dei Gratia, Angl. Sco'æ, Franciæ, et Hiberniæ Rex, Fidei Defensor, &c. Prædilecto et Fideli Consiliario Nostro Henrico Dom. Finch Dom. Cancellario Nostro Angliæ, Salutem: Cum Will'us Comes Powis, Will'us Vicecomes Stafford, Henricus Dominus Arundell de Wardour, Will'us Dominus Petre, et Joh'es Dominus Bellasis, coram Nobis in Parlamento, per Milites, Cives, et Burgenses, in Parlamento Nostro assemblet. de Alta Proditione, et aliis atrocissimis Criminibus et Offensis, per ipsos Will'um Comit'em Powis, Will'um Vicecomitem Stafford, Henric. Dominum Arundell de Wardour, Will'um Dominum Petre, et Joh'em Dominum Bellasis, commiss. et perpetrat. in Nomine ipsorum Militum, Civium, et Burgensium, et Nomine omnium Communium Regni Nostri Angliæ, imperiti et accusati existunt; Nos, considerantes quod Justitia est Virtus excellens, et Altissimo complacens, volentesque quod prædictus Will'us Vicecomes Stafford, de et pro Proditione et aliis Criminibus et Offensis, unde ipse (ut præfertur) impetitus et accusatus existit, coram Nobis, in præsentem Parlamento Nostro, secundum Leg. et Consuetudin. hujus Regni Nostri Angl et secundum Consuetudinem Parliamenti, audiat, examinetur, sententietur, et adjudicetur, cæteraque omnia quæ in hac Parte pertinent

debito Modo exerceantur et exequantur; ac pro eo quod Propere et Magnates in præsentem Parlamento Nostro assemblet. Nobis humiliter supplicaverunt, ut Senescallum Angl. pro hac Vice constituere dignaremur; Nos, de Fidelitate, Prudentia, provida Circumspectione, et industria vestris plurimum confidentes, ordinavimus et constituimus vos, ex hac Causa, Senescallum Angliæ, ad Officium illud, cum omnibus eidem Officio in hac Parte debit. et pertinen. (hac Vice) gerend. occupand. et exercend. Et ideo Vobis mandamus, quod circa Præmissa diligenter intendatis, et omnia quæ in hac Parte ad Officium Senescalli Angliæ pertinent et requiruntur, hac Vice, faciatis, exercetis, et exequamini cum Effectu. In cujus Rei Testimonium, has Literas Nostras fieri fecimus Patentes.

Teste Meipso, apud Westm. Tricesimo die Novembris, Anno Regni Nostri Tricesimo Secundo. Per ipsum Regem, propria Manu signat.

"BARKER."

Then the Lord Bishop of London, for himself and the rest of the Bishops, delivered in a Protestation; which they desired may be entered; which was read, as followeth:

"The Lords spiritual of the House of Peers do desire the leave of this House, to be absent from the trial of the lord viscount Stafford; by protestation, saving to themselves and their successors all such rights in judicature as they have by law, and of right ought to have."

Then in regard of the age and weakness of the lord viscount Stafford, it was agreed, that his lordship should be permitted to have a stool or chair to sit on.

The House having taken into consideration the formalities to be observed in the proceedings at the trial of William lord viscount Stafford in Westminster hall; agreed, That the serjeant at arms be continued in the House, to make proclamations which are to be made in the king's name.

Then the House was adjourned into Westminster-hall; whither the Lords went, in that order as they have directed; Garter king at arms calling them in their due places by a list.

The Trial of WILLIAM Viscount STAFFORD,* before the Lords at Westminster, on an Impeachment for High Treason, 32 Car. II. November 30, A. D. 1680,

THE FIRST DAY.

WILLIAM earl of Powis, William viscount Stafford, Henry lord Arundel of Watdour, William lord Petre, and John lord Bellasis, having been formerly impeached in the House of Lords, of High Treason, and other high crimes and offences, by the House of Commons, in the name of themselves, and of all the Commons of England:

And the House of Commons having sent a Message to the Lords, to acquaint them with the

* "The other great business of this parliament was the Trial of the viscount of Stafford, who was the younger son of the old earl of Arundel, and so was uncle to the duke of Norfolk. He was a weak but a fair conditioned man: he was in ill terms with his nephew's family: and had been guilty of great vices in his youth, which had almost proved fatal to him: he married the heiress of the great family of the Staffords. He thought the king had not rewarded him for his former services as he had deserved: so he often voted against the court, and made great applications always to the earl of Shaftesbury. He was in no good terms with the duke; for the great consideration the court had of his nephew's family made him to be the most neglected: When Oates deposed first against him, he happened to be out of the way: and he kept out a day longer. But the day after he came in, and delivered himself: which, considering the feebleness of his temper, and the heat of that time, was thought a sign of innocence. Oates and Bedlow swore, he had a patent to be paymaster general to the army; Dugdale swore, that he offered him 500*l.* to kill the king. Bedlow had died the summer before at Bristol. It was in the time of the assizes: North, Lord Chief Justice of the common pleas, being there, he sent for him, and by oath confirmed all that he had sworn formerly, except that which related to the queen, and to the duke. He also denied upon oath, that any person had ever practised upon him, or corrupted him: His disowning some of the particulars which he had sworn had an appearance of sincerity, and gave much credit to his former depositions. I could never hear what sense he expressed of the other ill parts of his life, for he vanished soon out of all men's thoughts." Burnet.

Sir John Reresby thus mentions this case:

"Westminster-hall was the place, and I think it was the deepest solemnity I ever saw. Great were the expectations of the issue of this event, it being doubtful whether there were more who believed there was any plot by the papists in reality against the king's life, than not. He was impeached by the Commons, and being

resolution of that House, to proceed to the Trial of those Lords, then in the Tower, and forthwith to begin with the said viscount Stafford, and to desire their lordships to appoint a convenient day for the Trial of the said viscount Stafford: Their lordships did thereupon appoint the 30th day of November 1680, for his Trial. And a place in Westminster-hall having been for that purpose erected, the same was as followeth: viz. Therein were both seats and wool packs, correspondent in all points to those in the House of Lords; as also a state placed at the

deemed to be weaker than the other Lords in the Tower, for the same crime, and less able to labour his defence, was purposely marked out to be the first brought on; but he deceived them so far as to plead his cause to a miracle. The three chief evidences against him, were Dr. Oates, Dugdale, and Turberville: the first swore that his lordship had brought him a commission signed by the pope, to be paymaster of the army to be raised against the king; and the second that he had offered him five hundred pounds to kill the king; and the third, that he had offered him a reward for the dreadful deed, but at a different time. And so positive seemingly were they in this and other dangerous evidence, that I, who sat and heard most of the trial, had not known what to think had the witnesses been but men of any the least credit; but indeed such were the incoherences, and indeed contradictions which seemed to me to arise towards the latter end, that considering them, and the very evil name of the people that swore against this lord, I was fully satisfied that all was untruth they laid to his charge. But the poor gentleman was condemned by a majority of 22. He heard his accusers and defended himself with great steadiness and resolution, and received his sentence with great courage and composure; nor did he stoop beneath the weight of his doom, till he submitted his head to the block, with his last breath protesting his innocence, and the cruel wrong he suffered. My lord Halifax was one that gave his voice for him; and the king, who heard all his trial, was extremely concerned at the rigour and abruptness of his fate."—"The unfortunate lord Stafford came to the House of Lords, and was admitted under a notion that he had some discovery, or confession to make, concerning the popish plot: but instead of that, he only protested his own innocence, and accused lord Shaftesbury of a correspondence with the papists, and of sending him to the duke of York, to desire him to use his interest with the king to dissolve the long parliament, as the best thing that could be done to favour the popish interest, and so he was remanded back again.—Lord Stafford was led

upper end thereof, with a cabinet for the king, and whom his majesty should think fit to attend him there, on the right hand the state; and the like on the left hand; for the queen and her followers; as also galleries over head for ambassadors and others.

And to the end that the Commons might be fitted with seats upon this great occasion, there were erected for them on each side, divers benches, on several degrees, extending to the utmost walls of the Hall.

At the lower end the bar whereunto the prisoners were to be brought being placed, on the right hand thereof was a place raised about five foot, wherein the witnesses were to stand; and on the left hand a convenient room for those particular members of the House of Commons who were to manage the evidence.

And the right honourable Heneage lord Finch, Baron of Daventry, Lord High Chancellor of England, being by his majesty's special letters patent bearing date the 30th of November 1680, constituted Lord High Steward for that present occasion; upon Tuesday the said 30th of November, the Lord High Steward was honourably attended from his house in Queen street by all the judges of his majesty's courts in Westminster Hall, in their robes; as also by Garter principal king of arms, in his majesty's coat of arms, and the gentleman usher of the black-rod, unto whom his majesty had before delivered the white wand, to be carried before his lordship: and about nine of the clock in the morning set forward in his coach towards Westminster, sitting at the hinder end thereof, Garter and the gentleman who bore the great seal sitting both uncovered at the other end; one of the serjeants at arms, with his mace, being placed on the right side the coach, and the usher of the black rod, carrying the white wand, on the left side; the judges and his lordship's gentlemen in several coaches following after.

Being thus come to the stairs-foot, ascending to the House of Peers, the judges went up two and two together (the juniors first); next the Lord High Steward's gentlemen; after them

to the scaffold on Tower-hill, where he persisted in the firmest denial of what was laid to his charge, and that in so cogent, convincing, and persuasive a manner, that all the beholders believed his words, and grieved his destiny." In other parts of his Memoirs Reresby informs us, that on October 23, 1678, the king told him at the duchess of Portsmouth's lodgings, the Lord Treasurer also being present, that he took Oates's account of the tragedy of sir Edmundbury Godfrey, his getting admittance to the Jesuits College at St. Omers, &c. to be some artifice, and that he did not believe one word of the whole story: and that on the 21st of November following, the king farther told him, that Bedlow was a rogue, and that he was satisfied he had given some false evidence concerning the death of sir Edmundbury Godfrey.

the serjeant at arms with his mace, and the seal bearer; and lastly, the gentleman usher of the black rod, bearing the white wand; Garter principal king of arms going on his right hand.

Then his lordship alone, his train borne by one of his gentlemen. In this manner entering the House of Peers, he found all the Lords in their scarlet robes, also the bishops in their rochets, and took his place upon the uppermost wool-sack.

This done, and prayers ended, his commission for Lord High Steward was read; and then the Bishops receded, and the Lords adjourned themselves into the new erected court in Westminster-hall.

All things being thus in readiness, and a large door-place broken through the upper end of Westminster-hall, into that room which was heretofore the Court of Wards:

Their lordships passed from their House first into the Painted Chamber, then through that called the Court of Requests; thence, turning on the left hand, into that called the Court of Wards; then entered at the door, so broke down as aforesaid, into Westminster-hall, and passed through a long gallery, placed between the King's-bench and Chancery Courts, into this new erected Court in Westminster-hall, and proceeded after this manner, viz.

First, the assistants to the clerk of the parliament.

Then the clerk of the crown in chancery, and clerk of the parliament; after them the masters in chancery two and two, and the king's attorney-general alone.

Then the Judges of all the courts in Westminster-hall, by two and two.

Next to them the noblemen's eldest sons.

After them four serjeants at arms, bearing their maces.

Next the gentleman-usher of the black-rod.

Then all the noblemen, according to their respective degrees, the juniors first, viz. barons, viscounts, earls.

Great officer, viz. Lord Chamberlain of the household.

Marquisses, dukes.

Great officers, lord privy seal, lord president of the council.

Then four more serjeants at arms, bearing their maces.

After them, the gentleman carrying the great seal.

Then one of his majesty's gentlemen ushers, daily waiters, carrying the white wand; Garter principal king of arms, going on his right hand.

Then the Lord High Steward alone, having his train borne; and after him his highness Rupert duke of Cumberland, a prince of the blood.

This done, and the whole House of Peers having taken their places according to their degrees, the Commons being also seated on each side, and the managers in the rooms appointed for them; the Commons being all bare, the Lord High Steward, after obeisance made to-

wards the state, took his place upon the uppermost wool-sack, and thereupon receiving the white wand from Garter and the gentleman usher upon their knees, delivered it to the usher of the black rod, who held it during the time of sitting there. Having so done, his lordship said, Crier, make proclamation of silence. Then the Crier, a serjeant at arms, made proclamation thus: All manner of persons are straitly commanded to keep silence upon pain of imprisonment. God save the king.

Lord High Steward. Make proclamation for the Lieutenant of the Tower to bring the prisoner to the bar.

Crier. O yes! O yes! O yes! Lieutenant of the Tower of London, bring forth thy prisoner William viscount Stafford, upon pain and peril shall fall thereon. God save the king.

Whereupon the Lieutenant of the Tower brought the prisoner to the bar.

Usher of the Black Rod. My lord Stafford must kneel; which he did.

L. H. S. Rise, my lord.

Then he arose and stood at the bar, and the Lord High Steward spake to him as followeth:

My lord viscount Stafford; the Commons of England assembled in parliament have impeached your lordship of High-Treason; and you are brought this day to the bar to be tried upon that impeachment: You are not tried upon the indictment of treason found by the grand jury, though there be that too in the case; but you are prosecuted and pursued by the loud and dreadful complaints of the Commons; and are to be tried upon the presentment which hath been made by the grand inquest of the whole nation.

In this so great and weighty cause, you are to be judged by the whole body of the House of Peers, the highest and the noblest court in this, or perhaps in any other part of the christian world.

Here you may be sure no false weights or measures ever will or can be found: Here the balance will be exactly kept, and all the grains of allowance, which your case will bear, will certainly be put into the scales.

But as it is impossible for my Lords to condemn the innocent, so it is equally impossible that they should clear the guilty.

If therefore you have been agitated by a restless zeal, to promote that which you call the Catholic cause; if this zeal have engaged you in such deep and black designs as you are charged with, and this charge shall be fully proved, then you must expect to reap what you have sown; for every work must and ought to receive the wages that are due to it.

Hear therefore with patience what shall be said against you, for you shall have full time and scope to answer it; and when you come to make your defence, you shall have a very fair and equal hearing.

In the mean time the best entrance upon this service will be to begin with the reading of the charge.

VOL. VII.

L. H. S. My lord, if your lordship find yourself infirm and unable to stand, your lordship may have a chair to ease yourself whilst your charge is reading. And a chair was brought accordingly, and his lordship sat thereon.

Clerk of the Parliament read the Charge.—
[Which see at p. 1285.]

L. H. S. Gentlemen of the House of Commons, be pleased to proceed.

Then Mr. Serj. *Maynard*, one of the Committee appointed to manage the Evidence, began as followeth:

My Lords;

May it please your Lordships; by command of the House of Commons, who have imposed upon us this task, we are here to prosecute this great charge against the prisoner, the lord at the bar. My lords, there are two parts that are in this great charge; there is a general, which is the subversion of the whole nation, the king himself to be murdered, the Protestant religion to be suppressed, war to be introduced, and those other things that are expressed in the articles. This general is charged in particular upon this lord; and, my lords, it was in consideration, how far it was fit to meddle with this general at this particular trial: for if this lord be guilty of such crimes, it will prove well enough that there was such a Plot. But, my lords, withal we did consider when the first discovery of this Plot was made, how afterwards it took cold, how rumours were raised against it, how there were endeavours to suppress the belief of it; and therefore, my lords, we do conceive that it is fit we should first settle that, that there was a general Plot, a Plot of such a nature as the articles express.

Some objections we thought there might be raised, because it hath been so long in the world, some years now since the discovery of it, some persons, that is, some ten or eleven, prosecuted and attainted for it, and therefore that might have been satisfaction enough that such a Plot there was; besides, that there have been public declarations of the particulars of it to the world. But being now to proceed before your lordships in a judicial way, we did think fit, and we hope your lordships will approve of it, to spend some time in the proof of the general Plot, which we hope will be to the satisfaction of your lordships and the whole world; for we do not think that England only looks into this day's trial, but the whole world one way or other, the whole Christian world is concerned in it. My lords, after the publication of these things (which were not judicial) how far your lordships will believe them, as judges, we know not; we will prove it now, that their policies and contrivances may be laid open to the world. And first we offer it to your lordships, because we have made it part of the charge. And secondly, we shall do it, because we think your lordships are not obliged to believe things that are in print, till we prove them by witnesses judicially before you. But

4 O

the main reason why we do it, is, because we would touch upon those endeavours that have been used to make this seem as if it were a kind of State-Plot, I know not what to call it, a chimera, an' imagination, and not a real thing. This they laboured many ways to effect, but we shall prove that it is a very real and a very true one.

When that Oates first made a discovery, it seems it had not that weight that we think now it will clearly have with your lordships; and had not the murder of sir E. Godfrey followed in the neck of it, the world as it was asleep, would have lain so; but that awaked us.

My Lords, it fell out in this case, as it did in another: When Cataline the traitor was a great way off Rome, and four other lords with him, Cassius, Cethegus, and others, five in all; it came to pass, that, as the great orator that was at that time said, 'Many were so ignorant that they would not think it; many were so unwise they would not believe it; some so ill that they would not favour it; and some so much worse that they did foster it; but all of them in not believing it, gave strength to the Con-
'spiracy and the Treason.' And so it did here, for we look not upon ourselves as discharged from the treason when discovered, but when prevented.

My lords, another reason to induce us into the proof of the main plot is this: we do not look upon it as a particular offence, as if one lord was only to be questioned, and appear before your lordships judicially for it; he is indeed only before you at this time to receive his trial, and your judgment: but, my lords, This is a treason of a faction, and of a general party in the nation; it is not this or that lord, but a great number: it is not this or that lord that is mentioned in the Articles, but the Conspiracy is of a great faction. This do we think, and this makes us so earnest to press the general before your lordships, that we may give satisfaction to your lordships and the world what this Plot hath been, and how carried on every where.

My lords, the consequence of that is very great: for, my lords, if there were a general design, and a general plot, as clearly there was, some were to act in Spain, and some in France, some in other places, some in Ireland, Scotland, and England, and a great a number of Jesuits (we have a matter of thirty in chase about this business;) I say, my lords, if it be so, if one action be in one place, and another in another; yet if there be a common consent to accomplish this Plot, then what the one does is the act of all and the act of all is the act of every one.

My lords, the persons were many, and the places and times many they acted in, and the designs which they were to accomplish, and the means wherewith they were to accomplish them were many too. Great and wicked were their designs, to destroy our king, to take him out of the world; and why? Upon hopes of better times to them under him that should succeed

him. Another part of the design was, to destroy, not this or that man that stood in their way, but the whole body of the Protestants here in England; not a murder, but a massacre and a slaughter of all whosoever they were that came near them, and none were to escape; for if any meant to flee, they would be sure to cut them off: nay, not only to destroy our king, though that be the greatest offence that our law can take hold of, but to destroy our religion, and to destroy us because of our religion.

To accomplish this, that we may open the generals of it, arms were to be provided, men to be raised, an army was formed in effect; and who to lead, and who to command, and who to pay. But, my lords, not only were arms to be had here among ourselves, but a French aid must be fetched in; assistance from France must come too: intelligences and letters are written, and correspondencies had, and aids promised by the ministers from thence.

My lords, It is a strange thing that Englishmen should contrive to have an invasion of strangers upon their own country; and surely they are the worst bigots in the world that were so zealous to destroy their own nation: and they were not wise sure to think, that if the French did come in, they should continue great lords or great men; and yet thus it was in general. It is very strange that it should enter into the heart of any man to destroy so many persons. But, my lords, if we look upon what did encourage them, and what confirmed them in this design, and what they have published to the world about their religion, we shall not wonder at it; since they tell us it is lawful to kill a heretic king, and the king of England is an heretic, they say, and so declared, so that whosoever would kill him did a lawful and pious piece of service to God: nay, not only so, but a meritorious and glorious one too, for which they may be canonized for saints.

My lords, We find it is no new thing: look into all the nations where the pope hath any power or possibility of hope to gain a power, nothing hath been able to stand in their way, but they have broken through all the bonds of nature, and other obligations to attain their ends. Look into Spain, king Philip there removed his own son, by what means the story tells us; he was heir apparent, but he was a Protestant; and there also the father puts fire to his own daughter, because she was a Protestant; there a Spaniard goes from Spain into Germany to murder, and did murder his brother for no other cause but because he was a Protestant. Leave Spain and go into France; what massacres have been committed there under the colour of a marriage in queen Elizabeth's time! And before that, how many hundred Albigenes and Waldenses have been put to the sword for Religion! Come we to our own country, and look into England, what hath been done here, when queen Elizabeth had a successor of another religion, how many attempts were there made upon her person to bring that suc-

cessor in! When king James came to the crown let us remember the Gunpowder-Treason,* wherein all the nation was to be destroyed; King, Lords, and Commons together, and in parliament assembled, were then to be a sacrifice, a burnt offering, though they might call it a peace offering; for these gentlemen are for sacrifices of blood as peace offerings, to reconcile us to the pope. If this be made out, we think, their principles having produced these fruits in other ages, we may believe they would do so now.

What has been said as history of former times, is not offered as evidence of fact to the present case, but induces a probability that what hath been done by such persons may be done by them again. But, my Lords, we shall make it clear, and bring it home to this lord, that he hath had his head, his tongue, his hand, his heart, and his purse in this damnable and horrible contrivance and treason for the destroying of the king, the government, our religion and our nation. We shall bring it home to him; but my part is only to open the general conspiracy: and indeed, my lords, it is an heavy burden on my aged shoulders, considering that the winter of infirmity and age is growing so fast upon me.

My lords, The particulars concerning this noble lord, because the credit of it rests on the testimony only of one man, viz. Mr. Oates, whose testimony being taken by sir E. Godfrey, Justice of Peace, and kept in writing by him, then sir E. Godfrey was way laid, and murdered by men of the popish religion, thereby to suppress the Examination that he had taken. This startled and opened the eyes of the world to look about us for farther discovery, lest we should be led as 'Oxen to the slaughter, not knowing whither we went.' Afterward it pleased God to bring some of their religion and party to make further discovery: whereupon several Jesuits, guilty of the Plot, were therefore prosecuted and brought to judgment and death.

After the murder of Godfrey, several fables were spread abroad, as if he were alive and married, as was declared to several lords: others of the party reported he had murdered himself; but his body being found, it was hard for the party to invent or tell, whether he first strangled himself, and then run himself through, or first run himself through, and then strangled himself: that was a dilemma to disprove their fables touching Godfrey's murder.

It then fell out, that Mr. Bedlow came as a second discoverer, whose testimony concurred with Oates; and then there being two witnesses, as is necessary in case of treason, the design was to take off Bedlow, that there should remain but one, a single witness: in order to which, Reading† tempts Bedlow with rewards to lessen his former testimony, and qualifies that which he had deposed positively was but mat-

ter of hearsay; for which Reading, the instrument in that design and attempt, was indicted and convicted by three witnesses, and suffered according.

But then this attempt upon Bedlow failing, the next attempt was to take off Oates's testimony by charging him with an infamous offence: for which purpose one Knox is employed, who suborns Lane and Osborn, and they swore it against Oates; but on re-examination confess the subornation and falshood of their design and Knox and Lane are therefore indicted and found Guilty.—Thus, when the treason was discovered, the murder of an officer of justice is made the means to hide it; and then false and infamous stories set on foot of that officer to hide that murder, and perjury and subornation the means to blast the discoverers.—These wicked and ill practices we take to be a second proof of the Plot; both in general and particular, the records of which convictions are here before your lordships ready to be proved: for, *cui bono*, none would do such wicked practices, but to hide a greater sin; and worse designs if possible will be opened, and proved by one to whom that is particularly appointed.

My lords, We speak this that the world may receive satisfaction; we will let our Evidence be all open and public in the face of the sun, and shew, we go not about by private subornations, though there are endeavours to encounter us by such.

My lords, if we make out these things, here is matter enough for the satisfaction of the world, as to the general contrivance. But my lords, as you sit here as judges of this lord, the prisoner at the bar, we must bring it down to particular persons; and we shall do it even to him, that those things which were mentioned in general were his contrivance, at least wise, as a man highly, deeply guilty of conspiring the king's death; and in order to that, of raising an army, and the other things that have been opened.

My lords, I beseech you to pardon me, if I have troubled you too long: the particulars are many, I have had little help to prepare it from any body but myself: but I submit myself to your lordships, and hope that what is wanting in me, will be supplied by others that follow: and I also hope you will find no defect in our evidence at all, whatsoever may have been in the opening of it.

Then Sir Francis Winnington, another of the Committee appointed for the management of the Evidence, spoke as followeth:

My Lords;

I shall begin where Mr. Serjeant Maynard ended, and confine myself to this case, as it stands before you, and to open the particular evidence relating to the lord, the now prisoner at the bar.

My lords, I look upon the cause of this day to be the cause of the Protestant Religion; and I doubt not but that Plot, which has alarmed all Christendom, will be so clearly made out in this

* See vol. 2, p. 159, 217, of this Collection.

† See p. 259, of this volume.

trial, that the most malicious of our enemies will henceforth want confidence to deny it.

That the religion of the papists does countenance and encourage the murdering of princes, the massacring of such as they mis-call heretics, and the committing of all sorts of impiety in order to promote their superstitions and idolatries, has been mentioned by the gentleman who spoke before me; and I should mispend time to say more of a truth so well known, in so great and so learned a presence: I will therefore directly apply myself to the business of the day, to represent to your lordships our evidence of the Plot in general, and of the guilt of this lord at the bar in particular.

In order to which, I shall crave your lordships leave that I may use this method: 1. To shew what advantageous opportunities the Papists had to enter into, and undertake this great and detestable Conspiracy. 2. To prove the reality of the Plot in general, which I look upon as a very easy undertaking. 3. To state the particular Evidence against the prisoner at the bar, by which he will appear to have been one of the principal conspirators in this horrid design to murder our sovereign, (whom God preserve) to extirpate the Protestant Religion, and to subvert totally the government and fundamental laws of this kingdom.

My lords, to shew what extraordinary advantages the papists had to enter upon this conspiracy, will very naturally lead us into our proof of it; and therefore I shall speak somewhat to that in the first place. It is not unknown to your lordships, or to any others who have in the least degree enquired into affairs, that his majesty has been so unhappy as that (unawares to him) some ministers, who have been papists at the bottom and others that have drove on their interest have crept into his councils, and thereby gave great opportunities to advance popery. It is most true, that as soon as these ill ministers were detected, and their ill designs discovered, his majesty did discharge them: but to the misfortune of the king and his people, as ill men have been recommended to succeed them, and came into their places.

In the next place, my lords, there did appear in some men too easy and favourable a disposition towards the papists. They were grown strangely moderate towards these old enemies of our church and state. New projects of reconciling us were set on foot, and books were written to distinguish the Church of Rome from the Court of Rome. One of those books, which was printed in the year before the discovery of the Plot, pretends, that there ought to be a difference made between papists of loyal and disloyal principles. This book, as it was written more artificially than the rest, and published in so critical and dangerous a juncture, deserves, and I doubt not in time will have, a particular consideration. It is easy to believe how great encouragement this must give to the Romanists, to see how very willing men were to meet them, and how freely the pen was drawn in their favour.

Another great encouragement, my lords, which the papists had, was, That by the means of those ministers who were secretly of their faction, whensoever his majesty was pleased to command the laws made against them in the reign of queen Elizabeth and king James to be put in due execution, his good intentions were frustrated, and the severity of those laws was turned upon the Protestant dissenters. This was a master-piece of Rome, not only to divert from themselves the edge of those laws which were designed against them, but to turn them upon the Protestants, and to make them useful to advance the Romish interest: and when they had thus divided and distracted us, then was the fairest time for them to attempt to destroy us utterly, and to make sharp their weapons in order to a massacre.

But, my lords, that which gave the papists the greatest encouragement to enter into this detestable conspiracy, was, that they had (to the great unhappiness of this kingdom, and the Protestant religion) the expectation and hopes of a popish successor. This was an opportunity not to be lost. They had abundant experience of his majesty's firmness in the Protestant religion, both during his exile, and since his happy Restoration, and how resolutely he had kept that promise which he made in his Letter from Breda, That neither the unkindness of some Protestants, nor the civilities of some papists, should in the least degree startle him, or make him swerve from his religion.

They therefore could have no hopes of arriving at their point, the re-establishment of their Church, whilst the king lived; and it was too great a hazard to expect his majesty's death by the course of nature: and therefore, like true papists, that would stick at no wickedness to accomplish their designs, they threw off all bonds of loyalty and allegiance, and resolved to destroy our sovereign, whose life was the only obstacle in their way. This was the last and most wicked part of their Plot, which, though it consisted of very many parts, yet this was the principal; and our Evidence against the lord at the bar will chiefly run to this part of the design.

I have only mentioned some of those encouragements which the world plainly saw the papists had, before the Plot was detected: but since the discovery, it has been abundantly proved, that it had been carrying on for many years, and that so universally, that it is a wonderful thing it appeared no sooner.

My lords, I come now to our Evidence: and though it may seem unnecessary to prove to your lordships a general Plot of the papists, who are so well satisfied of it already, and have more than once declared so to the world; yet because it is the most natural method for us, first to prove that there was a conspiracy, before we attempt to prove this lord to have been one of the conspirators, we shall beg your leave as to that particular. And as we shall be careful not to take up too much of your time, so we well know your lordships

will allow us all the time necessary to give our evidence.

We have many records, things reduced to judgment, whereby the Plot is most undoubtedly proved, and which are legal evidences before your lordships: the attainders of several jesuits and priests, the attainder of Langhorn and of Coleman, whom I should have named in the first place. We have also the conviction of those that were prosecuted for the murder of sir E. Godfrey; and there is a conviction, though not for the murder, yet for cutting the throat of Mr. Arnold. It is true he is not dead, yet as to the public, I count him murdered by the papists, though he be alive in the world. My lords, we have convictions not only of treasons, murders, and cutting of throats, but of almost all other villainies whatsoever: as of attempts to suborn witnesses, and to scandalize the king's evidence; and to that we shall produce the records concerning Reading's attempt upon Bedlow; that concerning the suborning of Knox and Lane to swear buggery against Dr. Oates; and the conviction of Tashborough and Price to corrupt Dugdale, a principal witness as to this Plot.

I only mention these particulars, my lords; and certainly as you are a great Court of Record, you will take notice of them. It would be a hard thing, perhaps, to spend the time in reading all, since all of them are made known to the world already; but we shall in the course of our evidence produce them, and you may read such of them as you please. All the use we make of them, is for the proof of the general Plot, which is requisite to be done; for it will be hard to believe the prisoner guilty of the Plot, if there was no such Plot at all.

My lords, we shall make appear to you things which have not yet been brought into judgment. In the year 1676, we shall prove by a witness that was then abroad, and discoursed with Anderton, Champion, Green, and several other priests and jesuits, that they did acquaint him that there would be great alteration in England ere long; that the king was a heretic, and excommunicated, and might be destroyed; and this doctrine they continually and industriously preached. And they further said; if once the king were removed (who alone stood in the way); their religion must needs flourish; for this reason, as the witnesses will speak, that the duke of York was on their side.

My lords, We shall prove, that they had in England men no less industrious among them, some whereof have been executed: Gavan by name, who made it his business to go up and down in several counties of this kingdom, to prove by Scripture, councils, and examples, That it was a lawful undertaking to kill his majesty. These things I name, as necessary in order to introduce our particular evidence; I am unwilling to dwell longer upon this point of the general Plot. I shall produce the Records, and produce our several Witnesses, Mr. Oates and others, that will give you a full and plain account of it.

My lords, Having done with the general Plot, I come now to open the particular Evidence against my lord the prisoner at the bar. As to him, my lords, our evidence stands not upon conjectures, or upon mere probability, because this lord is (as we well know) a zealous papist, and hath owned himself so; but we have express particular proofs against his person. My lords, we have one witness to produce to your lordships, who will prove, that in September 1678, there was a consult of some priests and other conspirators, at Tixal in Staffordshire, my lord Aston's house, for killing of the king, where my lord Stafford was present. And by a discourse in the same month, we shall prove what reason this lord did give, why he and their party undertook the murdering of the king; because, he said, that he and many Catholic families had no recompence for their loyalty; but if any thing fell, it was disposed of to rebels and traitors. This he resented deeply; but above all, the obligation of his conscience, and of his religion, persuaded him to do it, and confirmed him in his resolution to go on in this horrid design.

My lords, We will go further, and prove, that this lord offered 500*l.* out of his own purse to carry on the Plot, and particularly this part of it, for killing the king. We shall produce to your lordships a witness to whom he made this offer, as looking upon him to be a faithful man, and having received so great a character of him from one Evers a priest, that he thought he might safely communicate the matter to him; and the argument he urged to persuade the witness, besides the 500*l.* which he said upon his application to Harcourt and Ireland they should pay him, was this, That others as well as he were employed in the same design; that it was the only way to establish the Romish religion in England; that he would lay an everlasting obligation upon all the persons of that persuasion, and that he should not only have his pardon, but be canonized for it.

My lords, This is the substance of the testimony of the first witness which we shall produce against my lord Stafford; and that is so express, as I think it can hardly be answered.

My lords, Our next witness says thus (for I shall but open the substance of what they say): in June or July, 1678, there were several letters from this lord at the bar to the jesuits in London, in which his lordship did declare his readiness to serve them in their great design: and in June (1678) the latter end of the month, my lord Stafford came to Mr. Fenwick's chamber in Drury-Lane (he went not then by the name of my lord Stafford, but by the name of Mr. Howard of Effingham), and there he did receive a commission from Fenwick to be paymaster-general of the army which was to be raised for the carrying on the plot. His lordship told them he was then going into the country, but he hoped he should soon hear from them, that they had done the business, at least that it would be done before his lordship did return. To which Fenwick made answer,

Your lordship must look after the business as well as other persons; and there will be need of some to countenance it in town: thereupon the lord, the prisoner at the bar, said, That they had been often deceived by this prince, and been patient with him, but they would bear no longer, but were now resolved to do the work without delay, for their patience was worn out. Several other particular circumstances the witness will acquaint your lordships withal, which I shall not take up your time with.

My lords, We have a third witness as considerable and particular as any of the rest, one that lived three years in the lady Powis's house, had his education there, and was persuaded by that lady, and by one Morgan a jesuit, to become a friar, and to that end was sent to Doway; but not liking to continue at Doway (he will tell you the reason why) he escaped to France, and at Paris came to his brother a Benedictine monk there, who advised him to go for England. But whilst he staid at Paris, this gentleman, by the means of his brother and other priests, grew into a great familiarity with my lord Stafford, who was then in France, and who at last came to have such a great confidence in him, that his lordship could not hold, but told him, that though he had disoblighd all his friends by going away from Doway, yet he had something to propose to him, which would be a means to reconcile him to his friends, and bring him into preferment, and into the friendship of all good Catholics, whom he would oblige by it. The gentleman was willing to embrace so happy an opportunity, and desired to know what it was could procure him so great a good. My lord Stafford, the prisoner at the bar, told him, It was a thing of very great importance; and after having required from him all possible obligations of secrecy, he told him plainly what great benefits would accrue to himself, and what advantage to the Catholic cause, if he would make himself and the nation happy, by undertaking to kill the king of England, who was an heretic, and consequently a rebel to God Almighty. My lord Stafford did believe the witness did embrace this proposal warmly, and therefore directed him to prepare to go for England, and to go before-hand from Paris to Diep, where he would meet him, and go over with him. But it seems my lord Stafford met with some diversion, for he did not keep his word with him in coming; and so this gentleman being disappointed, went over without him: but fearing to be called upon to the same service, he returned back again suddenly, and went into the French army.

My lords, we shall produce these witnesses against the lord at the bar; and when they have proved to your lordships what I have opened, any one who was not acquainted with the Popish party, would believe they would be at a loss how to acquit themselves from this charge. All manner of foul and indirect practices have been used by them to terrify, to cor-

rupt, and to scandalize our witnesses; all manner of objections have been made to our evidence. If the witness does not come up to speak directly to every point, we are told, he says nothing at all; if he speaks directly, they cry, he is not to be believed. Thus they have a ready answer to every witness that has been or ever shall be produced, either that he says nothing material, or that nothing that he says ought to have any credit.

But we doubt not by this trial before your lordships, if we cannot stop their mouths, at least to convince all the world besides of the reality of this plot.—It will be no wonder if their confidence goes on still to frame cavils. they are used to scandalize the government, and they cannot give it over. How often has his majesty under his great seal published and declared this conspiracy! How often has he pressed his parliaments to go on to bring the conspirators to punishment! And at the opening of this very parliament he says plainly, That he does not believe himself safe from their designs. Your lordships also have voted the unquestionable truth of the Plot, and so have the Commons; yet these men are so hardy, as still to deny the plainest truth, so confirmed as this hath been.

Nay, my lords, their malice goes yet farther, for they have been so bold as to whisper up and down, and industriously to spread reports, before the Trial, as if this lord at the bar, and the rest who are impeached, should certainly be acquitted. We do hope to be able to detect the authors of this great scandal; and the Commons doubt not of your lordships concurrence to assist them in bringing them to their deserved punishment. This is sure the first time that ever any sort of men presumed to reflect upon the justice of this high and noble court. Your ancestors, my lords, did by their honour, courage and justice, preserve our ancestors; the advantages of which, we, who are descended from them, do now enjoy; and we shall never have occasion to doubt in the least, but that your lordships will tread in their steps. You have in your hands a great opportunity to make your zeal for truth and for the Protestant religion famous to posterity. No artifice or malice can create the least jealousy in us, that ever your lordships should shew any partiality or injustice to the Commons of England. To your judgment this cause is submitted; and when we have your judgment, we doubt not but we shall drive Popery out of this English world. My lords, we shall go on to the proof of our cause; and I hope this will be a happy day to us and the whole Protestant interest.

Then Mr. Treby, also one of the committee appointed for the management of the Evidence, spoke as followeth:

My lords; These two learned gentlemen have fully discharged their province. I shall proceed to call our witnesses to give their testimony. But before we produce them your lordships will be pleased to take notice, that our

Evidence will consist of two parts, general and particular; the general, to shew the universal conspiracy; the particular, to shew what special part this noble lord, the prisoner at the bar had in it. And though in the first part my lord Stafford may not be particularly named, yet that Evidence will be pertinent and proper for us to give in this trial of my lord Stafford; for we charge him not with the private treason, wherein he with his immediate accomplices only might be concerned, but it is a treason of the Popish faction, or at least the principal and active Papists.

We lay it in our Articles of Impeachment, That there was an execrable Plot contrived and carried on by Papists, and that the conspirators acted in divers parts, and in divers places, beyond sea, as well as here. It was a treason that did bestride two lands: England indeed was the thing aimed at; the destruction of the religion, government, and liberty of England, was the end; but the means and instruments were not collected here only, but part of them were to be brought in from abroad. This is an enterprize too extensive to be entirely managed by a single nobleman: and though we look upon my lord Stafford as a great malefactor, yet we cannot think him so great a man, as to be able within his own sphere to compass this whole design. Should we not take this course of evidence, first to prove the general plot, it might be a great and just objection in my lord's mouth to say, "You charge me with a design of subverting the kingdom, how is that possible to be undertaken by me, and those I have had opportunity to converse and confederate with? A mighty part of the Catholic world had need to be engaged for such a purpose."

My lords, If this would be a material objection from this lord, then will it be requisite for us to obviate and prevent this objection, by shewing; first, that there was such a grand and universal design of Papists, in which this lord was to co-operate for his distinct share; though, perhaps, when we descend to our particular Evidence, it will appear, that his part hath been great, and managed with malice as great as any.

My lords, We shall begin with a witness, a gentleman whose education has given him the opportunity of knowing the inside of their affairs; and we presume he will give you a satisfactory account: his name is Mr. John Smith.

L. H. Steward. What do you call him to, gentlemen?

Mr. Treby. To the general plot, my lords.

Lord Stafford. May it please your lordships, I know not who he is, nor his name; I humbly beseech your lordships, that this witness, whoever he be, and all the rest that have any thing to witness against me, may look upon me face to face, according to the words of the statute. I humbly beseech your lordships to grant me this, which I take to be according to law; and that each may give his evidence alone, and that both against me, and for me, one may not know what the other says.

L. H. S. My lord, you shall have all the fair proceedings that can be.

L. Staff. The law says, my accusers must look me face to face. I desire to have the words read.

L. H. S. Your lordship may see him where he stands up.

Then Mr. Smith turned, and looked upon my lord Stafford.

L. Staff. I do see him, but I do not know him.

L. H. S. Swear him.

Clerk. The evidence that you shall give in the trial of William Viscount Stafford, shall be the truth, the whole truth, and nothing but the truth; so help you God, and the contents of this book.

L. H. S. Your lordship observes he is not brought as a particular witness against your lordship, but to prove the general design of your party.

L. Staff. 'Tis still concerning me.

L. H. S. Look upon my lord Stafford (which he did), and now tell your evidence.

Mr. Treby. This is Mr. Smith, my lords. And that which we would examine this witness to, is, the general design of the plot; what knowledge he hath had of it here or beyond sea; the gentleman is able to understand the general question.

Mr. Smith. My Lords, I remember very well when I went first into France, I came acquainted with Abbot Montague, Father Gascoigne, and several other Popish Priests and Jesuits, who often discoursed with me, and told me, if I would make myself a Catholic, I should have an employment amongst them there, and afterwards in England; for they did not doubt but the popish religion would come in very soon. Upon which I asked his lordship the Abbot one day, what reason he had to believe it? He told me two reasons: 1. that they did not doubt but to procure a toleration of religion, by which they should bring it in without noise; and, 2. that the gentry that went abroad did observe the novelty of their own religion, and the antiquity of theirs, and the advantages that were to be had by it. These reasons Abbot Montague gave me. There was one Father Bennet and others that told me, the chief reason was, their party was very strong in England, and in a few years they would bring it in, right or wrong. All this would not prevail upon me to turn papist, and I lived among them several years. At last I had a design to go to Rome; and as I went I had a design to go to Provence (and so into Italy), where there was one cardinal Grimaldi coming through the town, and the Jesuits having a great school there, I was curious to go to the school, and they were very desirous I should tarry for some time in the town: I did, and they made much of me, and told me much to the same substance, what assurances they had of their religion coming into England. At last they had a desire I should discourse with the Cardinal; which I did; and he made much of me, and he it was that per-

verted me to the Romish religion. Upon this, the Cardinal shewed me a pair of hangings that were in his house, which he said did belong to the Queen-mother, and were bought in Paris; and he told me he was acquainted with many of the nobility in England, and that he had great assurance the popish religion would prevail; and he told me there was but one in the way, and though that man was a good-natured man, yet they could not so far prevail upon him, but that to accomplish their designs they must take him out of the way. But at last I left this place, and went to Rome, where I lived some years in the English Jesuits' college there; and when I had lived there five years, I came to be prefect of several rooms there, which are the scholars lodgings and places of study. I have heard it there often disputed in their own college, both preached and privately exhorted, that the king of England was an heretic, and that there was no king really reigning, and whoever took him out of the way would do a meritorious action.*

L. H. S. Who was that that said so?

Mr. Treby. Name the persons.

Mr. Smith. Father Anderton; Rector of the college, who was a very good scholar; Father Mumford, and one Father Campion; but chiefly one Father Southwell, one of the chief of the Jesuits. And I doubting of the truth of that opinion, they did shew me several of their books there, and directed me to some passages of Mariana, Vasquez, and Bellarmine, which I have since published to the world, wherein they did assert it as a true doctrine, and as Christian doctrine, what the Fathers told me; and this was never condemned at Rome. Besides, my lords, when I was coming from Rome, with my faculty and license signed by Cardinal Barberino, who generally conducts, or causes to be conducted, all papists to take their leave of the pope; and before we came away (for there were five or six of us together) for a whole month these Fathers were exhorting of us, That we were not obliged to obey the king of England, and that in all private confessions we were to instruct all persons that we thought were capable of any design, that they should use all their endeavours for promoting the popish religion. I, coming into England, made my application to Dr. Perrot, who belonged to the Portugal ambassador, and was chief of the popish clergy in England. I was kept there some months to say mass in his chapel; and afterwards I was sent into the North, where there were abundance of Jesuits and Friars, to one Mr. Jenison's house; where knowing the principles of these people, I made it my business to rout these Jesuits away, especially out of Mr. Jenison's house, who had a kinsman of his own that was a Jesuit, and used to serve him in his house, and great complaint was made

against me; and there was one Mr. Smith, otherwise Serjeant, in the North, who gave me intimation of it, and to whom I wrote to satisfy him and the clergy of the grounds and reasons why I routed them away; which, if he be in England now, he can justify. Upon this, I received a smart letter, as a kind of reprimand for my doing so; and he told me, that though they did agree with me in doctrine, yet they would endeavour what they could to bring in the popish religion, and taxed me sharply for appearing against it. I told him how the Jesuits perverted the duke of York; and that by that means they would be the chief men in England, though there were none of their order till queen Elizabeth's time. Besides, my lords, in Rome I saw Coleman's Letters, and read them once a month, as I believe; wherein he gave us intelligence of several passages that happened in court; how the duke, and the queen, and the chief of the nobility were of their side; how they carried matters several times; the ways my lord Clifford did use, and sir Wm. Godolphin, to effect the work; and that they did not question but they should get my lord-treasurer Danby on their side too. This was in Coleman's Letters; and he had so much allowance for his intelligence. These letters of his I read several times in the college. My lords, afterwards, when I came from Rome, I saw abbot Montague again, and he said he was very glad to see me, and that I was a priest. Well, but, said I, what am I the better? Where is the employment you promised me when I should come into England? He told me I should have it very soon, and he was glad that I had not made myself a Jesuit; and he recommended me to Dr. Goffe, Confessor to the Queen-mother, who said he would do any thing in the world for me, and he did not doubt but he should get a preferment for me; which Dr. Goffe is now living. Truly when I came into England, I found all the popish clergy of England, that I discoursed with, of the same opinion, that they did not doubt but the Romish religion would soon come in. And besides, in the North there was gathering of money, in which I was ordered to be one of the chief men; but I was against it. I told them I would do nothing in it; I thought it was illegal to send any money beyond sea: they told me it was charity, only to repair the college at Doway. I told them it was strange that there should be so much money raised only to repair one college, which would serve three or four colleges; and I persuaded Mr. Jenison, and all other persons I had to do with, not to meddle with it. As to this raising of the money, I conceive it may be inferred, it was for some other private business, and I believe was for the carrying on the design. As for the gentleman at the bar, my lord Stafford, I know nothing of my own particular knowledge, but only this: There was one Thomas Smith, sir Edward Smith's brother, that lived at a place not far off the place where I lived, who was one that contributed in paying the money that

* As to the admission of this sort of Evidence, see the Trials of Hardy, of Horne Tooke, and of Thelwall, A. D. 1794; and of Stone, A. D. 1796, *infra*.

was then collecting: He was the man that writ a letter up to my lord Stafford, to complain of two or three justices of the peace that were active against popery; upon which there was one that was turned out, that I think is now of the honourable House of Commons—

Mr. Treby. Name him.

Mr. Smith. Sir Henry Calverly. The other was not turned out. So I asked Smith, when I was lately in the country, about it; for I heard a rumour, that there was a letter of this Mr. Smith's found in my lord Stafford's chamber, and I was told it by a parliament-man, one colonel Tempest. So, said I to him, now you will be concerned in the Plot. No, said he, I care not for that letter, it will signify nothing: for my lord won't keep by him any thing of any moment. I asked him what he knew about my lord. He told me he writ another letter to my lord, to know whether he would make a conveyance of his estate away, and whether he apprehended they were in danger: and he told me his lordship's answer was, That several did so, but he would not; for he expected some sudden change or alteration. I asked him what change or alteration he understood by it. Sir, said he, what can be understood by it, but an alteration of the government and religion? I am sure, said he, my lord is so wise a man, that he would not write so without some ground. This is all I can say to the gentleman at the bar; and this is true, by the oath I have taken.

Mr. Treby. My lords, I observe Mr. Smith in the beginning of his testimony (speaking of the discourse he had at Rome) said, they told him there was one in the way; I presume it is not uneasy to conjecture who was that one.

L. H. S. It was surely the king.

Mr. Treby. But we would rather have it explained by himself.

Smith. Father Anderton and Father Southwell did say that the king was a good man, but he was not for their turn, and he was the only man that stood in the way.

Mr. Treby. Did they name the king?

Mr. Smith. Yes, it was the common discourse all over the country.

Mr. Treby. My lords, I desire Mr. Smith in the next place may give an account of the methods they were to use to accomplish this design, the firing of the city, and the rest.

Mr. Smith. As to the burning of London I, heard nothing beyond seas at all but this; it was discoursed that the papists did it, and the like, but they denied it, and they said it came accidentally in a baker's house: but this I have often heard them say, that it was no great matter if it had been all burnt.

L. H. S. Will you ask him any more questions yet?

Mr. Treby. No, we have done with him.

L. H. S. Have you concluded your evidence, sir?

Mr. Smith. Yes.

L. H. S. My lord Stafford, will your lordship ask him any questions?

VOL. VII.

L. Stafford. I desire to know how long ago it was, my lord, since he was made a priest.

Sir F. Win. My lords, with your lordships leave, no man is bound to answer a question whereby he shall accuse himself; therefore under favour the question is somewhat harsh, and we demand your judgment in it.

L. H. S. What is the question your lordship would have asked him?

L. Staff. I will not ask it, since it is an offence; but did not he say he said mass? Pray how long ago was that?

L. H. S. I will ask him a question. Are not you a Protestant?

Mr. Smith. Yes, my lord.

L. H. S. How long have you been so?

Mr. Smith. I have been a Protestant near upon two years.

L. H. S. How long ago before were you perverted?

Mr. Smith. Some six or seven years.

L. H. S. That is nine years. That was, I suppose, about 1671.

Mr. Smith. I was always bred a Protestant, and was so abroad till I went towards Rome.

L. H. S. It is not criminal to have been a priest, if he have conformed.

L. Staff. I have no more to say to him.

L. H. S. Have you any more questions to ask him?

L. Staff. No; I never saw him before; he may be as honest a gentleman for aught I know as any one here.

Mr. Treby. Then, if your lordships have no more questions to ask him, he may withdraw. My lords, the next witness we produce is to the general still, and that is Mr. Stephen Dugdale.*

L. Staff. Is he only to speak to the general or to me?

Mr. Treby. To the general; we shall tell your lordship when we come to the particular.

Sir F. Win. My lords, with your lordships favour, we have opened our case, first, that we would go on with the general; while we are upon that head, we will only call those that speak to the general, but it may happen that one witness may speak to both; but we shall divide his testimony when we come to observe upon it.

Mr. Treby. My lords, I take leave to acquaint your lordships, that Mr. Dugdale hath but a low voice, and your lordships will not hear him without a command of silence: Which was done by proclamation, and Mr. Dugdale sworn.

Mr. Treby. Mr. Dugdale, take notice, we call you now only to the general part of the Plot, what discourses you have heard from priests in general concerning any part of the Plot; and you are not to give your particular evidence against this noble lord, my lord Stafford, till we call you thereunto.

L. H. S. What say you, sir?

* See the Introduction to the Trials for the Popish Plot, ante vol. 6. p. 1420, and Colledge's case A. D. 1681, infra.

Mr. *Dugdale*. About 15 or 16 years I have been acquainted, that there was a design carrying on for the bringing in the Romish religion. I have at several times, by the means of my ghostly father, that was Mr. Evers, been acquainted that there were several lords and several priests in several places in England that were to carry it on; that is, they were to have money and arms ready for those that wanted, against the death of the king. I have seen several letters which have come from Paris, Rome and St. Omers, all relating to this, to encourage Mr. Evers, and that he should go on to encourage the rest that were engaged. For that purpose I read some of them, and intercepted them, because they were all directed to me. Mr. Evers hath sent me upon messages, sometimes by letters, and sometimes by word of mouth, and all tended for the introducing of their religion, and that all should be ready with money and arms against the king's death: for I did hear nothing till of late about the killing of the king. In particular, there came one letter to Evers from my lord Stafford, to shew that things went on well beyond sea, and hoped they did so here. I saw another time some letters which were also transmitted to my hands by a messenger that came from Boscobel, which did come from Paris, and so to St. Omers, from whence they came to Harcourt, and Harcourt had delivered the letters to have the opinion of some lords; all which contained advice which they had received from Paris, which they counted extraordinary good. The purport of these letters were to shew there was no way could be more likely to do their work, than if any sudden death should happen to the king, then to throw it upon the Presbyterians, who had killed the old king, and were likeliest to be thought to have done this; and so they might easily get the Protestants, those of the church of England, to join with the papists against the Presbyterians, who would by that become odious and so should weaken the party, the more easily to accomplish their design. I have of late several times been in company with priests and other gentlemen in the country, when they have had consultations both for the introducing their own religion, and taking away the king's life, which they did always intend to be about November, December, or January 1678. It was late in the year; but all that year 1678 this was their consultation. I have been sent to the Jesuits, some of them, particularly to Mr. Vavasor and Mr. Gavan, for some monies, for there was a general collection, and there was the sum of 500*l.* at one time, which I received, and gave to Mr. Evers, and here turned it to London, for the carrying on this design, and for discharging an account of arms and things received from beyond sea. And it was agreed that my lord Aston, sir James Symmons, and others, should go in October 1678, to dispose of the arms which they had so received, some here, and some beyond sea, to the value, I heard say, of 20,000*l.* Moreover I did hear that they were to have men raised there, as well as here. So

I have heard from Mr. Evers, and Mr. Gavan and others, and I have been also by when it hath been discoursed that the king of France was acquainted with all these designs, and that he would furnish us with men, and should not be wanting with all other aid and assistance, if there should be any alteration, if the king should die or be taken away or to that purpose. I have been several times put upon to make foot-races, to draw people together, that they might the better have discourses together without suspicion, I was likewise put in trust by the Jesuits all the while the plot was carrying on, and particularly, for two years, all the letters relating to the plot came to my hand, some of which I opened, and some I kept in my own hands; and particularly I had one that came to my hands, which was about the death of sir E. Godfrey; for when I carried it to Mr. Evers, he said, there was one of our enemies taken out of the way: and it was contained in the letter This night sir E. Godfrey is dispatched; which by the date of it was the 12th of October 1678. I told him that that would prove a discouragement to us, and would be the ruin of all the design: he said, not so, it would rather prove otherwise; for he was one that was active in punishing lewd and debauched persons, and it would rather be put upon them than us, as done out of revenge.

Mr. *Treby*. Pray, sir, speak the particular time when that letter came into Staffordshire.

Mr. *Dugdale*. The 14th of October 1678, which was Monday.

Mr. *Treby*. The date of it pray tell us.

Mr. *Dugdale*. The 12th of October 1678.

Mr. *Treby*. The very night that it was done.

Mr. *Dugd.* Likewise when I did hear there was like to be an alteration in the government and having such fair promises, I was encouraged to it, and was very willing to contribute to the design; and I did then make over an estate which I had of four hundred pound value for that purpose and for the praying for my soul. And when my lord Aston and I should come to account, as there was money over and above due to me, I did likewise promise, because I saw money would be wanting I would give them a hundred pound more. There were several other gentlemen, as Mr. Hevingham, sir James Symons, my lord Aston, Mr. Draycott, Mr. Howard, and Mr. Gerard, who did to my knowledge contribute towards the carrying on of this charge, for defraying of money and raising arms, and paying for them. And I have seen letters from beyond sea, that have been to Mr. Evers, that all things have been ready as to the arms, and there only wanted orders how they should be disposed of; and I have been several times brought to the oath of secrecy for fear I should disclose it; and particularly that time that I went away from my lord Aston's, which was on a Monday morning, Mr. Evers gave it me, about the 13th or 19th of November 1678. And I did then promise by all the

promises I could make, and upon the sacrament, in his chamber, that I would not disclose it; but having others to advise me in it, such as could better do it, that told me such oaths were better broken than kept: and thereupon I came to discover the thing, which I have done to the best of my knowledge. I am very loth to charge my memory in particular, about times, or how many were in company, but those that I am sure of; but there hath been in company at the consultation several times, Mr. Heringham, Sir James Symons, Mr. Vavasor, Mr. Petre, Mr. Howard and my lord Aston himself; when there hath been a speech about the design for the introducing of religion, and for taking order about money to buy arms, and particularly when my lord Stafford was by about the death of the king, and that was about September 1678.

Mr. Treby. Mr. Dugdale, you speak of levying arms, and of the oath of secrecy that was given you; where there not other spiritual weapons used? Was there not an indulgence or such a thing?

Mr. Dugd. There was an indulgence about 1678, or thereabout, which came through Ireland's hands, transmitted from beyond sea, and so to Mr. Evers, and Mr. Gavan was put on to publish it, which he did one time at Boscobel. And it was likewise at all private chapels, that whoever was active for the introducing the Romish religion, or killing the king, should have a free pardon of all his sins.

Mr. Foley. Pray declare what arguments have been used by your priests to induce you to this design?

L. H. S. Raise your voice, that we may hear what you ask.

Mr. Foley. We would know what arguments have been used to persuade to this design?

Mr. Dugd. They have told me in their meetings, the king was an excommunicated heretic, and he was out of the pale of the church, therefore it was lawful to kill him, and it was no more than the killing of a dog.

Sir John Trevor. My lords, I desire to ask him one question farther, what he hath heard about a massacre that was intended?

L. H. S. Have you heard of any massacre that was to be?

Mr. Dugd. I have heard that about the time the king should be killed, several should be provided with arms, and such instruments, and rise all of a sudden at an hour's warning and so come in upon the protestants, and cut their throats; that was one proposal: and if any did escape, there should be an army to cut them off in their flight.

Mr. Treby. My lords, I desire to ask him one question further, whether he ever knew or heard of Mr. Oates and Bedlow till the plot was detected?

Mr. Dugd. I have heard of them from priests, as messengers entrusted by them, but no otherwise.

L. H. S. When did you hear that?

Mr. Dugd. I have formerly declared it.

Mr. Treby. Ay when?

L. H. S. Before the discovery, or after?

Mr. Dugd. Before the discovery.

Mr. Treby. My lord, the reason of the question, and the use we make of it is this; we charge the papists with the conspiracy of a plot, and they charge our witnesses with a conspiracy to accuse: now it appears, that Mr. Dugdale had not any knowledge of the other witnesses and only had heard of them as persons concerned; so it could not possibly be a joint contrivance among them.

Sir John Trevor. My lords, I desire to ask this question, whether Mr. Dugdale hath seen any letters from Whitebread to Evers, and what instructions were in those letters to Evers about the persons to be concerned, and what kind of creatures he was to employ in this great design of theirs?

Mr. Dugd. I saw a letter from Whitebread, to give Mr. Evers a caution who he did employ or trust in the design; for he told him there had been good care taken therein hitherto; and it were no matter whether they were gentlemen of quality or not, so they were stout and trusty, or to that purpose.

L. H. S. What should they be trusty for?

Mr. Dugd. For the killing the king.

L. H. S. Was that said plainly in the letter?

Mr. Dugd. To the best of my remembrance, in those very words.

L. H. S. Was there no cypher or character?

Mr. Dugd. There was no cypher or character that I know of, nothing but two letters for his name.

Mr. Treby. My lords, I desire Mr. Dugdale may give an account of those papers he speaks of; what became of them, and tell us the reason why they were not produced?

Mr. Dugd. My lords, when I was by the instruction of Mr. Evers to take my flight, I conveyed all my papers, that either belonged to him or myself, for the carrying on of the plot, and carried them to an house not far remote from my lord Aston's, and by the help of two maids—

Mr. Treby. Name them.

Mr. Dugd. Elizabeth Eld, and Anne Eld. And they two did prepare a fire in the chamber for that purpose, and they assisted me to burn them: I was in a great consternation and great fear, in regard I must fly and abscond myself, and indeed I did it with tears in my eyes. And whilst we were burning of the papers, one of them spied a little paper-book, by chance, and she asked me, whether that should be burnt; I told her, No; burn not that, for there is no treason in it. With that one of them asked me, Is there any treason in the rest? And I put them off, to the best of my knowledge, and would not give them a direct answer.

Sir John Trevor. Why did you consent to burn them?

Mr. *Dugd.* Because I knew they would discover me, and others that were concerned in the plot.

Sir *F. Winning.* Your lordship will be pleased to observe, the burning of the letters was before he discovered the plot, or any thing.

Mr. *Sacheverell.* My lords, We desire he may be asked one question; he told your lordship of the letter that came into Staffordshire about the death of sir E. Godfrey, but he hath not told you the reason why he was to be taken away. We desire he will let your lordships know what reasons they gave for it.

Mr. *Dugd.* My lords, I was desirous to know how things went, being concerned as well as Mr. Evers; and I asked what the reason was they took away his life? Mr. Evers told me, that there was a message sent to Coleman, to desire him that he would not reveal what he knew concerning the plot or any thing of that nature.

Mr. *Sacheverell.* From whom was that message sent?

Mr. *Dugd.* From the duke of York. And Coleman did send word back again, What was it the nearer? for he had been so foolish as to reveal all to sir E. Godfrey, who had promised to keep it all as a secret. But upon the examination, of Oates, before sir E. Godfrey, as a justice of peace, he was afraid he would come in an evidence against him; and had shewn himself a little too eager, which made Coleman afraid he would witness against him. And the duke of York did send word back again, that if he would take care not to reveal but conceal it, he should not come in against him, or to that purpose: and the next news we heard was the letter that he was dispatched.

Mr. *Foley.* I desire he may give an account what assistance the pope gave for the carrying on of this design?

Mr. *Dugd.* I heard the pope had out of his revenue, promised several sums of money for the carrying on this plot; and particularly that he would assist the poor distressed Irish with both men and money; and there should not be any thing wanting on his part.

L. H. S. Have you done with him, gentlemen?

Mr. *Treby.* Yes, I think we have with him, as the general.

L. *Staff.* I desire to ask him, then, what sums of money did the pope contribute to it?

L. H. S. What sums of money did the pope contribute to this design?

Mr. *Dugd.* I have heard of several sums in general that he was to contribute for the carrying on of the plot.

L. H. S. Did you hear of any sum certain?

Mr. *Dugd.* I do not know, but I think I heard sometimes of 10,000*l.*, or some such sum. I have been told by a servant that formerly belonged to my lord Stafford, That the pope's daily income was 24,000*l.* a day; and that if he would do as he had promised, he was able to do very much.

L. H. S. They told you so, you do not know it otherwise.

Mr. *Treby.* We have done then with him: We call Mr. Praunce next. [Who was sworn.]

Mr. *Treby.* My lords, I desire Mr. Praunce would give us an account of what discourse he had with one Mr. Singleton a priest, and when.

Mr. *Praunce.** I went to one Mr. Singleton a priest, at one Hall's in the year 1678; and he told me, That he did not fear but in a little time to be a priest in a parish church; and that he would make no more to stab forty parliament men, than to eat his dinner, which he was at, at that very time.

L. H. S. Where was that?

Mr. *Praunce.* At one Hall's, a cook in Ivy-lane.

L. H. S. Will you ask him any questions, my lord?

L. *Staff.* No, my lord.

Mr. *Treby.* Then call Dr. Oates. [Who was sworn.]

L. H. S. Do you examine Mr. Oates upon the general plot, or the particular?

Mr. *Treby.* Only to the general now; and we desire him to take notice he is so to speak, and to confine himself to that at present.

Dr. *Oates.* My lords, in the year 1676, I was admitted into the service of the duke of Norfolk, as chaplain in his house, and there I came acquainted with one Bing, that was a priest in the house. And being acquainted with him, there came one Kemish very often to visit him, and one Singleton, who told me, that I should find that the protestant religion was upon its last legs, and that it would become me, and all men of my coat (for then I professed myself a minister of the church of England,) to hasten betimes home to the church of Rome. My lords, having had strong suspicions for some years before, of the great and apparent growth of popery; to satisfy my curiosity, I pretended some doubts in my mind. My lords, after some time had passed over, and I had had some conversation with these men, I found they were not men for my turn, because being regular men, they were not men that had any great degree of learning. Afterwards, my lords, I met with one Hutchinson; I found him a saint-like man, or one that was religious for religion sake; and him I found not for my turn neither: For, my lords, my design was to deal with their casuists; that is, those of the society. After that I had obtained the favour from him, to have some conference with one of the society, I found they were the men for my turn, because I found they were the cunning politic men, and the men that could satisfy me. After that I had some discourse with them, I pretended to be convinced by their arguments. And, my lords, after that I had thus acknowledged my conviction, I desired to be reconciled; and accordingly on Ash-Wednesday, 1676-7, I was reconciled. And soon after my reconciliation, Strange, who was then provincial of the society, did tell me much after this way: Mr. Oates,

* See the Sentence upon him for Perjury A. D. 1686, *infra*.

you are now reconciled to the church of Rome; and you must lay down your ministry, for your ordination is invalid, and you must look upon yourself as no more than a layman: Pray, says he, now, what course do you think to take? I told him, I did desire to be one of their society, and to be admitted a novice into their order. He said, it was a very honest request, and a very honest desire; and he said, he would take some time to consider of it, and he would take till the Saturday following. Saturday following I was sent for by one Fenwick: I lodged then in Barbican, and Fenwick came to me, and told me, the Fathers were met at Wild-house, and would speak with me; And he also told me they had granted my request, and I should be admitted. After I was admitted, they told me, I had some years upon me, and I could not undergo those burdens they put upon younger men; but what did I think of travelling, and going beyond sea to do their business? I did agree to it, and in April 1677, I went aboard one Luke Roch, master of the Bilboa-merchant, bound for Bilboa, having their letters of recommendation. After I arrived there, which was on a Sunday in May or June, I cannot tell which, I went the Friday following for Valladolid in Castile, and I got thither the Tuesday following; but by the way I opened certain letters, wherein was made mention of a disturbance designed in Scotland. And the letters did express what hopes they had to effect their design in England, for the carrying on (as they worded it) the catholic cause, and for the advancement of the interest of the bishop of Rome. My lords, after I had arrived at Valladolid, there were letters there got before me, which were dated, in May, wherein was expressed news, that the king was dispatched, which was the cause of great joy to the Fathers there; and afterwards letters dated in May too (but towards the latter end of May) came, that they were mistaken, and desired the Fathers there to stifle that news. My lords, there came letters dated in June, wherein they did give an account, That they had procured one Beddingfield to be confessor to the duke of York; which Beddingfield by his interest might prevail much with the Duke in order to this design. Letters came also in June from St. Omers, which gave them an account, that Father Beddingfield had assured them of the Duke's willingness to comply with them for the advancement of the catholic religion. My lords, after I had staid some time there, and had passed through the country for the business of the society, I found that in the court of Spain some ministers of that court had been very ready to advance money, which money was returned for England; and that the Father provincial of the Jesuits of Castile, by his care and industry, had advanced 10,000*l.*, which was promised to be paid in June following, within a twelvemonth after. My lords, in July I received letters out of England, wherein an account was given there, to the Fathers in Spain, that they were sending them a mission

of twelve students, four whereof were to go to Madrid, and eight to Valladolid: The conductors of these twelve students were one Father Crosse, that was his true name, and one Father Mumford, whose true name was Armstrong. These missionaries arrived in December, where they had a sermon preached at their coming by this same Armstrong, wherein the oaths of allegiance and supremacy were declared to be antichristian, heretical, and devilish; in which the king's legitimacy was vilified and abused; and that his religion did entitle him to nothing but sudden death and destruction, in that he appeared an enemy both to God and man. These were the contents of that sermon, as near as I remember. My lords, after the meeting with several letters there, in July, August, and September, in the kingdom of Spain, it was ordered I should return for England, and in the month of November I came for England, at which time I had letters from the provincial of Castile, called by the name of Padre de Hieronimo de Corduba, who did in his letter assure the provincial in England and the Fathers here, that the 10,000*l.* should be paid, as I said before, in June following. When I came for England, at London I was lodged at one Grigson's, that lived in Drury lane, near the sign of the Red Lion, and there I lay until I went to St. Omers; and by the provincial and consultors of the province I was ordered a maintenance, and it was paid to this man for entertaining of me. I went and brought these letters to this Strange, and there was Father Keins laying ill upon Strange's bed; and Keins was saying, he was mighty sorry for honest William (so they called the ruffian that was to kill the king), that he had missed in his enterprize. But, my lords, this I think good to tell your lordships, they were not so zealous for the destruction of the king, till the king had refused Coleman the dissolving of the long parliament. Then they were more intent upon it, though they had several times attempted it ever since the fire of London; but when Coleman was refused the dissolution of the long parliament, then were they more zealous for the destruction of the king: But the design for the introducing the popish religion, they have been carrying on some years before the fire, by those instruments, some of whom are yet alive. My lords, I left England in November O. S. and December N. S. for when I came to St. Omers, it was as near as I can remember, the 9th or 10th of December, according to the stile of the place. I carried with me a packet of letters from Strange the provincial, and other Fathers that were of the consult for the province of England, to the Fathers at St. Omers, wherein Strange did tell them, that they had great hopes of their design taking effect the next year, but as yet it would not be effected: He said, therefore, they at London thought fit to suspend it till they saw what the parliament would do. And he did in the same letter declare, That the parliament would be about a long bill that had been brought

into the Commons house some sessions before, but he did not question but that the catholic party would evade that bill. And, my lords, in that year, some time after, we had a letter from our new provincial, whose true name was Whitebread, and his counterfeit name White. This Father writes to the Fathers at St. Omers, and therein he does order one Conyers to preach upon St. Thomas of Canterbury's day; and he did therein also tell them, that he would be as zealous for the carrying on of the design as his predecessor had been: And a sermon was accordingly preached at the Sodality church, wherein after he had commended the saint, whose day they celebrated, for his great virtues, declaring how unworthily he was sacrificed, he did inveigh against the tyranny, as he called it, of temporal princes, and particularly of the king of England; and when he came to speak of the oath of allegiance and supremacy, he declared, that he looked upon them as antichristian and devilish, and that it was fit to destroy all such as would countenance them. We have done with the year 1677, and we come now to January, 1678.

L. H. S. You speak of one Keins, who (laying upon Strange's bed) said he was sorry honest Will had missed his enterprize: You have not explained who that honest Will was; explain that.

Oates. It was Grove.

L. H. S. But about what did he say he was sorry for him?

Oates. That he had missed his design.

Mr. Foley. What was that missing of his design?

Oates. That he had not killed the king, my lords, in Jan. 1678.

L. H. S. You mean according to the foreign stile?

Oates. Yes, according to the foreign stile, my lords; we received letters out of Ireland, and there, my lords, we found by the contents of those letters, that they were as busy in Ireland as we were in England. We found there that the Talbots, and other persons, were very zealous in raising of forces, and were resolved to let in the French king, provided that the parliament should urge the king to break with France. My lords, likewise in January, as near as I can remember, Morgan was sent into Ireland as a visitor, which is something a better place than a provincial, but only it is but temporary for the time he visits, and he returns in February or March, and gives us an account how ready the Irish were to vindicate their freedom and their religion from the oppression of the English, as they called it. My lords, in February some were employed to go into some parts of Germany, to Liege, and to some parts of Flanders, to see how the affairs there stood, and how their correspondences stood, to see whether there was not an interruption in the correspondences. My lords, upon their return they found that the fathers at Ghent were inclined to take into this business the secular clergy; but the fathers of St. Omers, together

with the provincial, did refuse the motion, because the secular clergy were more cowardly, and sought themselves, and not the interest of the church, or to that purpose. My lords, in March we received letters, that there was a very shrewd attempt made upon the person of the king, and that the flint of Pickering's gun or pistol was loose, and his hand shaking, the king did then escape, for which he received a discipline, and the other a severe chiding.

L. H. S. You explain not the meaning of what you say; that was not honest Will, for he, you say, was Grove.

Oates. I mean Pickering received the discipline, and William was chid; for it was Pickering's flint that was loose. My lords, this was in March, and at the latter end of March there comes a letter from London, in which there was a summons to a consult here in London; and being summoned, there went over eight or nine from St. Omers, Liege, and Ghent, to this consult, and I did attend them in their journey.

L. H. S. When did that summons come?

Oates. The latter end of March, or the beginning of April, as I remember; they had notice of it in England before, but we had notice of it just when we were to come. I think it was in April, as near as I can remember; I cannot be certain in that, my lord. We did come to town in April, there the consult was held; it begun at the White-Horse tavern, where they did consult about some things of the Society, and afterwards they did adjourn into particular Societies, where they did debate and resolve on the death of the king, and that Grove should have 1,500*l.* for his pains, and the other being a religious man, should have 30,000 masses said for him. My lords, after staying in town a while we returned to Saint Omers; and after I had staid there some few days, the new provincial did begin to visit his province, and comes over to St. Omers, where after staying some six days, he goes over from thence to Wotton. But whilst he staid at St. Omers, I was ordered to go into England to attend the affairs here, and for to do some other services that they should employ me about. My lords, accordingly I did come over, and it was on the 23rd N. S. as near as I remember, I got to Calais; the 24th I got to Dover; on the 25th I got to Sittenburn, but between Dover and Sittenburn we had some boxes seized: For at Dover we met with Fenwick, who is since executed, who went by the name of Thompson, and carried a box with him; and a little on this side Canterbury it was seized by the custom-house officers, and several little trinkets in it, which were seized as French goods; and he did desire the searcher to stand his friend, and he would give him something for his pains, and told him where he should write to him in London. There was a subscription on the box to one Blundel, but he should write to him by the name of Thompson, at the Fountain tavern near Charing-cross. We arrived in town the 17th of June which is

the 27th New Stile; it was upon a Monday; and there were letters which did follow us, wherein were proposals made to sir George Wakeman for the poisoning of the king, and that the 10,000*l.* which the Spaniards had promised in January before, and was accordingly paid in London at the time, should be proposed to Wakeman to poison the king. I found that Coleman did look upon it as too little, and he thought 15,000*l.* should be given to him: I found that Langham thought it too much, and that he ought to do so great a piece of service for nothing, and told us he was a narrow spirited man, if he would not engage in such a thing. My lords, there was 5,000*l.* as the books told me, paid; but I did not then see it paid, because I was then ill, and not fit to stir abroad. My lords, we are now past June 1678. In July Father Ashby comes to town, who did revive the proposal to sir G. Wakeman; but being sick of the gout, he hastened down to the Bath; and when he came there, as soon as he began to be well, he was advised by the Fathers to see how the catholics stood affected in Somersetshire; for they had an account in March 1678, by letters from Berkshire, Oxfordshire, and Essex, that the catholics stood well affected; and sir William Andrews did secure that the people of Essex should stand to their points; and so several men did secure that they would have them in readiness. My lords, in August (I cannot remember every particular, but refer myself to the records of the House), about the 26th of August, I find that Fenwick went to St. Omers, and there he was to attend the provincial home, and to give the provincial an account of the proposal accepted by sir G. Wakeman; but in July (if your lordships please to give me leave to go back again) Strange comes to town, and falling into discourse about the fire of London, and the rebuilding of it, he very frankly told me how it was fired, and how many of those concerned were seized; and amongst the rest, told me, that the duke of York's guard, as by his order, did receive them, and were afterwards willing to discharge them; which I forgot to mention before; but upon review of my papers, I do find that it was told me his guard did release the prisoners that were suspected about the fire, and that all the order they had for it, they pretended was from the duke. But now, my lords, we return to August again. Upon the 3d of August, I find Ireland did pretend to go to St. Omers, and a letter came from him as directed from thence; but we find by his trial and other things since, that he went into Staffordshire; and about the 12th of August (as I remember) he was here in town. The latter part of July I communicated with Dr. Tongue, and gave him some particular account of affairs; I desired him to communicate it to some that might make it known to the king: The king had notice the 13th of August, or the 14th, as I remember; and by the 3d of September I was betrayed, and was exposed to the vengeance of those men whose contrivances

I had thus discovered. So my intelligence did cease wholly the 8th of September. Then was I forced to keep private; and upon my examination, what information I gave before the Lords and Commons, I refer myself to them.

L. H. S. My lord Stafford, will you ask him any questions?

L. Staff. No, my lord; I am not at all concerned in his evidence.

L. H. S. You say you were betrayed: Can you tell how, or which way you were betrayed?

Oates. My lord, I will give this honourable house what light I can in it; but I desire then to be excused from my oath, for I cannot speak it of my own knowledge.

Sir J. Trevor. Then the next witness we desire may be called, is Mr. Bernard Dennis.

Mr. Serj. Maynard. This witness we call now, is to confirm what Dr. Oates hath said, that he was at Valladolid and other places in Spain; he will be short.

L. H. S. Call you Oates again?

Sir F. Win. No, my lord, we call Dennis to confirm what Dr. Oates hath said. He hath given your lordship an account that he was in Spain; we now produce one that saw him when he was there, and so confirms the evidence that was given by him.

Then Mr. Dennis was sworn.

Mr. Treby. Mr. Dennis, Do you give their lordships an account of your discoursing with Dr. Oates in Spain, or any where else abroad, and where.

L. H. S. Stay a little; do you know Mr. Oates?

Dennis. Yes, my lord.

L. H. S. How long have you known him?

Dennis. I knew him in the year 1677.

L. H. S. Where?

Dennis. At Valladolid.

L. H. S. Did you see him there? Was he a student there?

Dennis. Yes, my lord.

L. H. S. Was he known by the name of Oates?

Dennis. Yes, my lord, he was.

Sir Fr. Win. My lord, we desire he may tell his knowledge of Mr. Oates, what conversation he had with him in Spain.

Dennis. My lords, I was in Spain, in the city of Victoria; and leaving the city of Victoria in the month of June, I took my course to Madrid, and passing through the city of Valladolid, going into the convent of Dominicans, there came an Irishman, a priest of Ireland, out of the city to see me; and there he told me there was a student of the Jesuits, by name Mr. Oates, an Englishman; and I understanding this, went into the college of the Jesuits to see Mr. Oates, and there had conversation with Mr. Oates; and in the conversation I had with him there, he told me that he was a vicar in Kent, and that he was chaplain to a great nobleman of England, by name Howard; and that he went out of England by the consent of the Jesuits in England, being converted by them to

the Roman catholic faith, and that his going into Spain was to fit himself for the Society of the Jesuits. And understanding my resolution was to go to Madrid, he did desire me to carry a letter to the archbishop of Tune, one James Lench an Irishman, who lived at Madrid. And further; he lent me four pieces of eight to defray my journey to Madrid, and desired me to pay the money to the procurator of the Jesuits at Madrid. And in carrying this letter to the archbishop, when I came there, I got a Dominican friar of Ireland, by name Humphrey Delphin, to go with me and see the archbishop at his lodging; and going in, I delivered him the letter in the presence of the Dominican, and he perused it in my presence, and in the presence of a priest that waited upon him; and finishing the contents of the letter, as I suppose, with a smiling countenance he turned about; and said, Sirs, the contents of this letter is, that Mr. Oates is desirous to receive the order of priesthood from me, or at my hands; and if it be so, it will be much in our way, and this man will be a fit man for our purpose: for, said he further, Dr. Oliver Plunket, * primate of Ireland, is resolved this year, or with the next convenience, to bring in a French power into Ireland, thereby to support the Roman Catholics in England and Ireland; and if it please God, I myself, without any delay, will go into Ireland to assist in that pious work. All this discourse between us and the archbishop, and between Oates and me, was in July 1677. And there I did speak and converse with Mr. Oates. All this I can testify for truth on the behalf of Mr. Oates, who was then a student in the college of Valladolid, and had no other name nor title.

Mr. Foley. I desire himself may tell your lordship what religion he is of.

L. H. S. What religion are you of?

Dennis. I am a Dominican frier, my lord.

L. H. S. Are you?

Dennis. My lords, I am.

L. H. S. At this time?

Dennis. Yes, my lords.

Serj. Maynard. He hath a pardon, my lords.

Mr. Treby. This hath been controverted, my lords, whether Mr. Oates ever was in Spain; we desire to make it out plain to the world, for the confirmation of his evidence; therefore we ask him again, Do you know the person of Mr. Oates?—Dennis. Yes, I do.

Mr. Treby. Is this person that gave evidence last before you, the same person you saw at Valladolid?

Dennis. Yes, it is.

Mr. Sacheverell. My lords, we desire to ask of him, why he had the four pieces of eight of Mr. Oates?

L. H. S. Why had you that money of Oates?

Dennis. For to defray my journey to Madrid.

L. H. S. Was that all you had?

Dennis. Yes, my lords.

Mr. Sachev. We pray he may be asked how he came to be so needy?

Dennis. My lords, I was not altogether needy; but it is very certain, religious persons, especially of my order, cannot carry any money about them but what is requisite for their journey, and that which may be removed from place to place.

Sir J. Trevor. I desire to ask him, did he see any more money that Dr. Oates had?

Dennis. I did see Dr. Oates in his chamber in the college at Valladolid, when he delivered me the four pieces of eight, to draw out a drawer of a table in his chamber, and out of the drawer he pulled a bag of money, which was a very considerable sum of money, and I am certain he did not want money there then.

Mr. Treby. My lords, I think we have done with him; if my lord please to ask him any question he may.

L. Staff. But only one question, for I never saw the man in my life. I desire he may be asked, whether he be still of the Romish religion.

Sir J. Trevor. My lords, We have not yet done with him; the question we would ask him is this, Whether he hath heard of any money that was gathered in Ireland for the support of this Plot?

L. H. S. The question asked of you, Have you heard of any money gathered in Ireland for the support of this Plot?

Dennis. I have both heard and seen of it.

L. H. S. When, and where?

Dennis. My lords, In the year 1668, I entered into the order of the Dominicans in Ireland; and in the same year there arrived at Dublin a Franciscan Frier, brother to the late earl of Carlingford; and arriving there, he made several collectors for the levying a competent sum of money out of every convent and religious house. My lords, the collectors were by name John Reynolds, alias Landy, and John Berne; and arriving at the county of Sligoe, in the month of May—

L. H. S. What year?

Dennis. 1668. And when the collectors came to the convent of our Friars in Sligoe, all the Friars gathered together into a room, and these collectors coming in did read their commission given them from one James Taaffe, as they said; and I was there personally present, though a novice; and upon reading their commissions, they said 40s. was to be paid by the Prior, and the Friars of that convent; and the provincial of the order of the Dominicans questioned the power of the said Reynolds and Berne, and so did the prior; and I asked why the money was levied? They gave answer, That that levy and several other levies was to encourage the French king, in whose kingdom were several bishops of Ireland, clergymen, and others, whose business it was to provoke the king to bring an army to invade Ireland, whenever time should serve.

L. H. S. Have you done with him now?

Mr. Treby. Yes.

L. H. S. Will your lordship ask him any questions?

L. Staff. My question is only, Whether he

* See his Case, A. D. 1681, *infra*.

profess himself of the Church of Rome, or a protestant?

Dennis. I am a Roman Catholic still, my lord.

L. H. S. Are you?

Dennis. I am, my lord.

L. Staff. Then I have no more to say.

Sir J. Trevor. Then we call Mr. Jenison. [Who was sworn.]

Mr. Treby. Mr. Jenison, who have been among the papists, and you have had great confidence among them; pray declare what you know of their designs for the destruction of the protestant religion, or the means of doing it, whether by the murder of the king, or what other means, tell your whole knowledge.

Mr. Jenison. My lords in the beginning of the year 1678, I have heard Mr. Ireland and Mr. Thomas Jenison, both Jesuits, speak of a design they had to gain a toleration of conscience for their party in England: and the way then designed to get it was, by procuring a great sum of money from their party, and by bribing the then parliament. I have heard them likewise discourse of procuring the duke of York's succession; and that (they told me) was to be done, by procuring of commissions to be granted out to those of their party, to be ready to rise upon the death of the king. I likewise have heard them discourse of the necessity and usefulness to their party of the alteration of the government established, and that their religion could never flourish till that was done, and this kingdom altered according to the French model. In the month of June 1678, I was at Mr. Ireland's chamber; and there happening a discourse, that the Roman Catholic religion was like to come into England, Mr. Ireland did then say, there was but one who stood in the way, and that it was an easy thing to poison the king, and that sir George Wakeman might easily and opportunely do it. I asked Mr. Ireland, whether sir George Wakeman was the king's physician? His answer was, No, but he was the queen's, and so might have an opportunity to do it. In the month of August the same year, the day that I came from Windsor, I went to Mr. Ireland's chamber, and I found that he was newly come from Staffordshire, and was drawing off his boots on the frame of a table; he asked me whence I was come? I told him from Windsor: He enquired of me about the diversions of the court. I told him, I understood his majesty did take delight in hawking and fishing, but chiefly in fishing; and that he went accompanied only with two or three, early in the morning. Then Mr. Ireland replied, He were easily taken off or removed. To which I answered, God forbid; being surprized at that time: Oh, said he, I say not that it is lawful. Then there happened some interruption to our discourse, about Staffordshire; then we fell into a discourse of their religion that he said was suddenly to come into England: and he asked me if I would be one of those that would go to Windsor to assist to take off the king. I told him, No; then he

told me he would remit the 20*l.* I owed him, if I would go to Windsor to be one of those that were to take off the king. My lords, I told him I would have no hand in any such matter, and that I would not for twenty times 20*l.* have any hand in the death of the king. Said he, Would you do nothing for the bringing in of our religion? I told him, I thought it would never come in by blood: I told him further, God forgive me, if the king were taken off so, well and good, but I would have nothing to do with it. He left not the discourse there, but asked me, if I knew any Irishmen that were stout and courageous. I told him, Yes, I did, and named captain Levallian, Mr. Karney, Mr. Broghall, and Mr. Wilson, all gentlemen of my acquaintance about Gray's Inn. When I named these, he asked me if I would go along with him to Windsor, to assist them in taking off the king. I told him, I did not think any man of estate would engage in such a matter; that I was heir to an estate, my brother being a priest, and that captain Levallian was heir to a very good estate, and therefore I did believe he would not do such a thing, unless the pique which he had to the king or religion might move him to it. My lords, he approved of these persons, and said, he knew the first two of them, Levallian and Karney; and he set down, as I remember, the other two names in writing. He told me he was going to the club, to Mr. Coleman, and Mr. Levallian, and Karney at that time, and then asked me for the money, the 20*l.* that I owed him. He told me, he wanted fourscore pounds, and he desired me that I would return it as soon as I came into the country. Now, my lords, the same day that I received this 20*l.* of Ireland, I went with Mr. Thomas Jenison, the jesuit, to Harcourt's chamber, to give the Fathers thanks for the loan of the money; and there Mr. Jenison falling into discourse on that common topic of their religion coming into England, he did then use that expression which Dr. Oates hath in his Narrative, 'If C. R. would not be R. C. he should not be long C. R.' And he did interpret it thus in Latin: 'Si Carolus Rex non esset Rex Catholicus, non foret diu Carolus Rex.*' And he did add, my lords, upon the discourse, that if the king were excommunicated or deposed, he was not longer king, and it was no sin, or no great sin to take him off; and if it were discovered who did it, two or three might perhaps suffer, but denying the fact, the matter soon would be blown over. My lords, about two months after the mustering the forces upon Hounslow-Heath, Mr. Thomas Jenison did tell me he had a matter of great consequence to impart to me; that there was a design on foot so laid, as that it could not well be discovered, and that the greatest papists, the greatest Catholics in England, were in the design; that the queen and the duke were in it, and that several lords, by name my lord Bellasis, my lord Powis, my lord Arundel of Wardour, and others: I be-

* See *ante*, vol. 6, p. 1456.

lieve my lord Stafford was named, but I cannot be positive in that. At that time, my lords, I did wish I had had a commission in the new raised levies that were mustered on Hounslow-Heath. He told me he would procure me a commission from the duke of York, and that there was a new army to be raised to bring in the Catholic religion; but he did say he would tell me more particulars after my receiving the sacrament of secrecy; and I did understand by him, that that commission was not to be sent till the taking off the king was collected: But being I was surprised at it, he would not tell me the whole matter, but he desired me to come and receive the sacrament at sir Philip Tyrwhitt's in Bloomsbury, and then he would acquaint me with the whole affair. My lords, being in Berkshire about the month of December 1678, at Madam Hall's in Shinfield parish, one Mr. Cuffil a jesuit came into our company. It was about the trial of Coleman; and Mr. Cuffil did then say, that he thought Mr. Coleman was infatuated, upon the discovery of the plot, to give notice to Mr. Harcourt, Mr. Ireland, and Mr. Fenwick, and the other jesuits, to burn or secure their papers, and yet not to secure his own. My sister Hall was present at this discourse; and Mr. Cuffil did then further say, that Bellarmine did draw a sentence out of the scripture, to favour the Pope's authority of excommunicating, depriving, and deposing temporal princes; and the saying was this, 'Quod Papa habeat eandem potestatem super Reges, quam Jehoiada habuit super Athaliam.' And that there were other corroborating testimonies among the fathers for it.

Mr. Treby. My lords, we desire to ask him, whether ever he heard of Mr. Oates being in the Plot, or being thought trust-worthy among them.

Mr. Jen. Yes, my lords, I did.

L. H. S. When did you hear it, and of whom?

Mr. Jen. Of my brother Tho. Jenison the Jesuit.

L. H. S. When did he tell you so?

Mr. Jen. About the latter end of July, 1678, when there was a discourse of a design, and that the greatest Papists were in it, he said, Mr. Oates a parson newly come over to them, was in that design: I answered, I did wonder that he would trust a reconciled enemy. He answered, That being once reconciled, they were more zealous and trusty. I submitted to his opinion, and instanced in Dr. Gotwyn and Dr. Bayley, that were Protestants, and afterwards came over to the Church of Rome.

Mr. Treby. We have done with him, my lord.

L. H. S. Will your lordship ask him any questions, my lord Stafford?

L. Staff. No, my lord.

Sir F. Win. My lords, I would only observe the time when he says his brother told him of the design, that it was about the time of the mustering the forces on Hounslow-heath; and

that he was then told Mr. Oates was in the Plot: I only observe it now, for the end of the case in point of time.

L. H. S. He said it was in July.

Mr. Jen. It was two months after the mustering of the forces, about the latter end of July.

L. H. S. Before the discovery?

Mr. Jen. Yes.

L. H. S. Did you know Oates at that time?

Mr. Jen. No, my lords, I was not acquainted with him.

Sir J. Trevor. Did you not see him then?

Mr. Jen. Yes, I saw him at Ireland's chamber.

Sir J. Trevor. When was that?

Mr. Jen. The latter end of April, or the beginning of May.

L. H. S. You say you did not know him in July; how then can you say you saw him before?

Mr. Jen. I did not know him; I only saw him come into Ireland's chamber, and whisper for some time, two or three minutes, and then they told me that that was Mr. Oates, a parson newly come over to them, a brisk jolly man, and worthy my acquaintance.

L. H. S. Is this the same man you saw there?

Mr. Jen. My lords, I cannot remember his face, for he was gone out when I was told of him.

L. H. S. Why, you know Mr. Oates now?

Mr. Jen. Yes, I do.

L. H. S. Do you know him to be the same man that you saw then?

Mr. Jen. I can't tell that.

Sir J. Trevor. My lords, he says, Mr. Oates only came in for three or four minutes, and his back was towards him, and his brother told him when he was gone who it was.

Mr. Jen. I only knew his name from my brother.

Mr. Treby. And I presume your lordships will observe this was at the very time of the Jesuits consult.

Sir J. Trevor. We desire this gentleman may tell your lordships who his brother is, and what profession he is of.

Mr. Jen. My brother was a Jesuit brought up at St. Omers.

L. H. S. Your brother is dead, and died in Newgate?

Mr. Jen. Yes, he did so.

L. H. S. Pray recollect yourself again: when was it that you saw the man they called Oates at the Jesuit's chamber?

Mr. Jen. My lords, it was in the year 1678, the latter end of April, or the beginning of May. And I will tell you why I apprehend it to be that time. My brother being a priest, lived with sir Philip Tyrwhitt in Lincolnshire; and in that year, in Lent, he came to town with my lady and that family, and he and I used to dine together at the fish-ordinary at Pedley's. And about three weeks or a month after that time, when he came to town, I was

at Mr. Ireland's chamber, and there was a gentleman, whom they told me was Oates.

L. H. S. This you say was the latter end of April, or beginning of May, 1678; for the time is material: Upon your oath you say it?

Mr. Jen. Yes, my lords, I do.

L. H. S. You say it was at Ireland's chamber?

Mr. Jen. Yes, my lords.

Sir F. Win. My lords, will you give us leave to ask him one short question; because some of the gentlemen doubt of it, we would ask it again: What his brother was, whether he was a Jesuit or no?

Mr. Jen. I have heard him own it, my lords.

L. H. S. Whom do you call next, gentlemen?

Mr. Treby. If it please your lordships, we shall in the next place produce our evidences that are matters of Record; and we desire your lordships' advice and direction how we are to minister the same, whether your lordships will have them all read, or but a word of them, and let them be left with your lordships.

L. H. S. What Records are they?

Mr. Treby. They are the Records of the attainder of Coleman, Ireland, and the other conspirators.

L. H. S. The fact is so notorious that they were attainted and executed, that the reading of a word will serve the turn.

Sir J. Trevor. Then we desire they may be produced here, and the copies proved upon oath; and then we shall leave them upon your lordships table. And, my lords, we desire likewise at the same time, to save another trouble, there may be delivered in the convictions of Reading, Lane, Knox, and others.

Then Mr. Clare was sworn, and delivered in the Copies of the Records.

L. H. S. What Record is that?

Mr. Clare. It is the record of the attainder of Coleman for high treason.

L. H. S. Did you examine it?

Mr. Clare. I did examine it.

L. H. S. Is it a true copy?

Mr. Clare. To the best of my understanding, it is. Here is likewise a copy of the record of the conviction of Ireland, Pickering, and Grove, for high treason.

L. H. S. Is there judgment of attainder entered upon record?

Mr. Clare. Yes, my lords, there is judgment entered. Here is a copy of the indictment, conviction, and attainder of Whitebread, Fenwick, Harcourt, Gavan, and Turner for high treason. Here is a copy of the record of attainder of Richard Langhorn for high treason. Here is a copy of the attainder of Green, Berry, and Hill, for the murder of sir Edmundbury Godfrey. Here is a copy of the conviction of Mr. Nathaniel Reading, for endeavouring to suborn Mr. Bedlow to retract his evidence against some lords in the Tower, and sir Henry Tichborne.

L. H. S. What is the judgment there?

Mr. Clare. The judgment is entered upon it; and it is to pay 1,000*l.* fine, and to be put in and upon the pillory in the Palace-yard, Westminster, for an hour, with a paper upon his head, written in great letters, "For endeavouring subornation of perjury." Here is a copy of the record of the conviction of Tasborough and Price, for endeavouring to suborn Mr. Dugdale, and judgment entered upon it. And here is a copy of the record of conviction of Knox and Lane, for conspiring to asperse Dr. Oates and Mr. Bedloe. Here is the record of the conviction of John Giles, for barbarously attempting to assassinate John Arnold, esq. one of his majesty's justices of the peace; and the judgment entered thereupon is, To stand three times on the pillory, with a paper on his hat declaring his offence; to pay 500*l.* to the king, to lie in execution till the same be paid, and find sureties for his good behaviour during life.

L. H. S. Deliver them all in. And if my lords have occasion to doubt of any thing, being left in the court, they will be there ready to be used. (All which were then delivered in.)

Mr. Treby. My lords, we humbly desire that the record of Coleman may be read, because there is more of special matter in it than any of the rest, and your lordships may dispose of the others as you please.

L. H. S. Read the record of Coleman.

Then the Clerk read (in Latin) the record of the attainder of Edward Coleman, formerly executed for high-treason, by him committed in this horrid Popish Plot, which is in English as followeth.

Of the Term of St. Michael, to the 13th year of the reign of king Charles the Second, &c.

Middlesex.

At another time, to wit, on Wednesday next after eight days of St. Martin this same term, before our lord the king at Westminster, by the oath of twelve jurors, honest and lawful men of the county aforesaid, sworn and charged to enquire for our said lord the king and the body of the county aforesaid, it stands presented, That Edward Coleman, late of the parish of St. Margaret, Westminster, in the county of Middlesex, gent. as a false traitor against the most illustrious, most serene, and most excellent prince, our lord Charles the second, by the grace of God of England, Scotland, France and Ireland, king, defender of the faith, &c. and his natural lord, not having the fear of God in his heart, nor weighing the duty of his allegiance, but by the instigation of the devil moved and seduced, the cordial love, and the true, due and natural obedience, which true and faithful subjects of our said lord the king towards him our said lord the king ought and of right are bound to bear, utterly withdrawing; and devising, and with his whole strength intending the peace and common tranquillity of this kingdom of England to disturb, and the true worship of God within this kingdom of England practised, and by law established, to overthrow; and sedition and rebellion within this realm of Eng-

land to move, stir up, and procure; and the cordial love, and true and due obedience, which true and faithful subjects of our said lord the king towards him our said lord the king should bear, and of right are bound to bear, utterly to withdraw, blot out, and extinguish, and our said lord the king to death and final destruction to bring and put; the 29th day of September, the 27th year of the reign of our lord Charles the second, by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, &c. at the parish of St. Margaret, Westminster, aforesaid, in the county aforesaid, falsely, maliciously, subtilly and traitorously proposed, compassed, imagined and intended sedition and rebellion within this realm of England to move, raise up and procure, and a miserable slaughter among the subjects of our said lord the king to procure and cause; and our said lord the king from his kingly state, title, power and government of this realm of England utterly to deprive, depose, deject and disinherit, and him our said lord the king to death and final destruction to bring and put; and the government of the same realm, and the sincere religion of God in this kingdom, rightly, and by the laws of this realm established, for his will and pleasure to change and alter, and the state of this whole kingdom in its universal parts well instituted and ordained, wholly to subvert and destroy, and war against our said lord the king within this realm of England to levy. And to accomplish and fulfil these his most wicked treasons and traitorous imaginations and purposes aforesaid, the same Edward Coleman afterwards, to wit, the said 29th day of September, in the abovesaid 27th year of the reign of our said lord the king, at the parish of St. Margaret Westminster aforesaid, in the county of Middlesex aforesaid, falsely, subtilly and traitorously devised, composed, and writ two letters to be sent to one M. la Chaise, then servant and confessor of Lewis the French king, to desire, procure and obtain to the said Edward Coleman, and other false traitors against our said sovereign lord the king, from the said French king, his aid, assistance and adherence, to alter the true religion in this kingdom then and still established, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England: and afterwards, to wit, the said 29th day of September, in the abovesaid 27th year of the reign of our said lord, now king of England, &c. at the aforesaid parish of St. Margaret Westminster in the county of Middlesex aforesaid, falsely and traitorously devised, composed and writ two other letters to be sent to one M. la Chaise, then servant and confessor of the said French king, to the intent that he the said M. la Chaise should intreat, procure and obtain to the said Edward Coleman, and other false traitors against our said sovereign lord the king, from the aforesaid French king, his aid, assistance and adherence to alter the true religion in this kingdom of England then and still established, to the superstition of the church of Rome, and

to subvert the government of this kingdom of England; And that the aforesaid Edward Coleman, in further prosecution of his treasons and traitorous imaginations and purposes aforesaid, afterwards, to wit, the same 29th day of September, in the abovesaid 27th year of the reign of our said now lord the king, the aforesaid several letters from the said parish of St. Margaret Westminster, in the county of Middlesex aforesaid, falsely, subtilly and traitorously did send into parts beyond the seas, there to be delivered to the said Monsieur La Chaise. And that the aforesaid Edward Coleman, afterwards to wit, the 1st day of December in the 27th year of the reign of our sovereign lord Charles the second, now king of England, &c. at the aforesaid parish of St. Margaret Westminster, in the county of Middlesex aforesaid, one letter from the aforesaid Monsieur La Chaise (in answer to one of the said letters, so by him the said Edward Coleman writ, and to the said Monsieur La Chaise to be sent, first mentioned) falsely, subtilly and traitorously received; and that letter so in answer received, the day and year last abovesaid, at the abovesaid parish of St. Margaret Westminster aforesaid, in the county of Middlesex aforesaid, falsely, subtilly and traitorously did inspect and read over; and that the aforesaid Edward Coleman, the letter aforesaid so by him in answer received in his custody and possession the day and year last aforesaid, at the aforesaid parish of St. Margaret Westminster, in the county of Middlesex aforesaid, falsely, subtilly and traitorously detained, concealed and kept; by which said letter the said Monsieur La Chaise, the day and year last abovesaid, at the aforesaid parish of St. Margaret Westminster, in the county of Middlesex aforesaid, signified and promised to the said Edward Coleman, to obtain for him the said Edward Coleman and other false traitors against our said lord the king, from the said French king, his aid, assistance and adherence. And that the aforesaid Edward Coleman afterwards, to wit, the 10th day of December in the abovesaid 27th year of the reign of our said sovereign lord Charles 2. now king of England, &c. at the parish of St. Margaret Westminster aforesaid, in the county of Middlesex aforesaid, falsely, maliciously, subtilly, and traitorously did relate and declare his traitorous designs and purposes aforesaid to one Monsieur Ruvigni (then envoy extraordinary from the French king to our said most serene king, at the parish aforesaid, in the county aforesaid, residing) to move and excite him the said envoy extraordinary with him the said Edward Coleman in his treasons aforesaid to partake: And the sooner to fulfil and complete those his most wicked treasons and traitorous imaginations and purposes aforesaid, he the said Edward Coleman, afterwards, to wit, the 19th day of December, in the abovesaid 27th year of the reign of our said lord Charles the second now king of England, &c. at the aforesaid parish of St. Margaret Westminster, in the county of Middlesex aforesaid, advisedly, ma-

liciously, subtilly and traitorously did devise, compose, and write three other letters to be sent to one sir William Throgmorton, kt. then a subject of our now lord the king, of this kingdom of England, and residing in France in parts beyond the seas, to solicit him the aforesaid Monsieur La Chaise to procure and obtain of the said French king his aid, assistance and adherence aforesaid. And those letters last mentioned, afterwards, to wit, the day and year last aforesaid, from the aforesaid parish of St. Margaret Westminster, in the county of Middlesex aforesaid, to the same sir William Throgmorton in France aforesaid, falsly and traitorously did send, and cause to be delivered, against the duty of his allegiance, and against the peace of our said now lord the king, his crown and dignity, and against the form of the statute in such case made and provided. Wherefore it was commanded the sheriff of the county aforesaid, that he should not omit, &c. but that he should take him, if, &c. to answer, &c. And now, to wit, on Saturday next after eight days of St. Martin, this same term before our lord the king at Westminster, came the aforesaid Edward Coleman under the custody of William Richardson, Gent. keeper of the gaol of our said lord the king of Newgate by virtue of the king's Writ of Habeas Corpus *ad subjiciend'*, &c. (into whose custody before then, for the cause aforesaid, he was committed) to the bar here brought in his proper person, who is committed to the marshal &c. and presently of the premises to him above imposed, being asked, how he will thereof be acquitted? saith, that he is in no wise thereof guilty, and thereof for good and evil doth put himself upon the country. Therefore let a jury thereupon come before our lord the king at Westminster on Wednesday next after fifteen days of St. Martin; and who, &c. to recognize, &c. because, &c. the same day is given to the said Edward Coleman, &c. under the custody of the said keeper of the gaol of our said lord the king, of Newgate aforesaid, in the mean time committed to be safely kept until, &c. At which Wednesday next after fifteen days of St. Martin, before our lord the king at Westminster, came the aforesaid Edward Coleman under custody of the aforesaid keeper of the king's gaol of Newgate aforesaid, by virtue of a writ of our lord the king of Habeas Corpus *ad subjiciend'*, &c. to the bar here brought in his proper person, who is committed to the aforesaid keeper of the king's gaol of Newgate aforesaid. And the jurors of the jury aforesaid, by the sheriff of the county aforesaid hereunto impannelled, being called, came; who being chosen, tried, and sworn to speak the truth upon the premises, say upon their oaths, that the aforesaid Edward Coleman is guilty of the high treason aforesaid, in the indictment aforesaid specified in manner and form as by the said indictment above against him is supposed; and that the aforesaid Edward Coleman at the time of perpetration of the high-treason aforesaid, or at any time afterwards, had no goods, chat-

tels, lands or tenements, to the knowledge of the jurors aforesaid. And the aforesaid Edward Coleman being asked if he hath any thing, or knows what to say for himself, why the court here ought not to proceed to judgment and execution of him upon the verdict aforesaid, saith nothing, but as before he had said: And hereupon instantly the attorney-general of our said lord the king, according to due form of law, demandeth against him the said Edward judgment and execution to be had upon the verdict aforesaid, for our lord the king. Whereupon all and singular the premises being viewed, and by the court here understood, it is considered, That the said Edward Coleman be led by the said keeper of the gaol of Newgate aforesaid, unto Newgate aforesaid, and from thence directly be drawn to the gallows of Tyburn, and upon those gallows there be hanged, and be cut down alive to the earth, and his entrails be taken out of his belly and be burned (he still living); and that the head of him be cut off, and the body of him be divided into four parts; and that those head and quarters be put where our lord the king will assign them, &c.

L. Staff. I do not hear one word he says, my lords.

L. H. S. My lord, This does not concern your lordship any further than as to the generality of the Plot.

Sir W. Jones. My lords, we have now done with our Proofs for the first general head that we opened, which was to make it out, that there was a Plot in general. We now come to give our particular Evidence against this very lord; and before we do begin, we think fit to acquaint your lordships, that our evidence will take up some time: if your lordships will have the patience to hear it out now, we will give it; but if your lordships will not sit so long till we can finish it, it may be some inconvenience to us to break off in the middle. And therefore we humbly offer it to your lordships consideration, whether you will hear it now, or no.

L. H. S. If it cannot be all given and heard now, it were better all should be given to-morrow.

Sir W. Jones. If your lordships please then, we will reserve it till to-morrow.

L. Staff. My lords, I would only have your directions, whether I shall answer this general first, or stay till all be said against me. That which I have to say to this general, will be very short.

L. H. S. My lord, you are to make all your answer entire, and that is best for you.

L. Staff. I am very well contented, that I may be better prepared for it.

L. H. S. Is it your lordships pleasure that we should adjourn into the parliament-chamber.

Lords. Ay, Ay.

L. H. S. Then this House is adjourned into the parliament-chamber.

And the Lords went away in the same order they came.

The Commons returned to their House, and

Mr. Speaker resumed the chair, and then the House adjourned to eight of the clock the next morning.

THE SECOND DAY.

Wednesday, December 1, 1680.

A Message was sent from the Lords, by sir Timothy Baldwyn, and sir Samuel Clark.

Mr. Speaker; The Lords have sent us to acquaint this House, that they intend to proceed to the Trial of William Viscount Stafford, at ten of the clock this morning, in Westminster-Hall.

Mr. Speaker left the chair, and the Commons came into Westminster-Hall in the new-erected court. And the managers appointed by the Commons went into the room prepared for them in that court, to proceed to the particular Evidence against William viscount Stafford.

About ten of the clock in the morning, the lords came into the said court in their former order; and proclamation being made of silence, and for the lieutenant of the Tower to bring his prisoner to the bar, they proceeded.

L. H. S. My lords expect you should go on with your evidence, and proceed in the trial of this noble lord.

L. Staff. My lords, if your lordships please, I humbly desire that my counsel may be near me for the arguing of what is fit to them to speak to, as to points of law; for points of fact I do not desire it.

L. H. S. My lord, you have an order for your counsel to attend, and they must and ought to attend.

Serj. Maynard. The counsel must not suggest any thing to him while the evidence is giving; they are not to be heard as to matter of fact.

L. H. S. It is not intended to make use of counsel as to matter of fact, but they may stand by.

Serj. Maynard. My lords, they may stand within hearing, but not within prompting.*

L. Staff. I assure you, if I had all the counsel in the world, I would not make use of them for any matter of fact.

Mr. Treby. My lords, will you please to order them to stand at a convenient distance, that they may not prompt the prisoner?

Sir W. Jones. My lords, I hope your lordships will consider, that a man in a capital cause ought not to have counsel to matter of fact. It is true, he may advise with his counsel; I deny it not; but for him in the face of the court to communicate with his counsel, and by them be told what he shall say, as to matters of fact, is that which (with submission) is not to be allowed. If your lordships order they shall be within hearing, I do not oppose it; but then I desire they may stand at that distance, that there may be no means of intercourse, unless points in law do rise.

* See the Note to the Case of Don Pantaleon Sa, ante, vol. 5, p. 466.

L. H. S. You were best make that exception when there is cause for it; in the meantime go on with your evidence.

Sir F. Win. We did perceive his counsel came up towards the bar, and very near him, and therefore we thought it our duty to speak before any inconvenience happened. This lord being accused of high-treason, the allowing of counsel is not a matter of discretion. If matters of law arise, all our books say, that counsel ought to be allowed: but we pray that there may be no counsel to advise him in matter of fact, nor till your lordships find some question of law to arise upon the evidence.

L. H. S. When there is cause, take the exception; but they do not as yet misbehave themselves.

Mr. Treby. My lords, We presume your lordships did, from the strength and clearness of yesterday's evidence, receive full satisfaction concerning the general Plot and Conspiracy of the Popish Party. It being an evidence apparently invincible, not out of the mouths of two or three witnesses only, but of twice that number, or more, credible persons. Upon which we doubt not but your lordships who hear, and strangers and unborn posterity when they shall hear, will justify this prosecution of the Commons, and will allow that this Impeachment is the proper voice of the nation crying out, as when the knife is at the throat. By the evidence already given, I say, it is manifest that there was a general grand design to destroy our religion, our king, and his Protestant subjects. And it is even impossible that this design, so big, could be conducted without the concurrence of such persons as this noble lord at the bar: it could not be carried on by less and lower men. And it were a wonder, that a person so fervently affected and addicted (as this lord is) to that party, should not be in at so general a design of the party. But this indeed is but presumptive evidence, which will induce a moral persuasion. We shall now produce such positive evidence as will make a judicial certainty; and will abundantly suffice to convince your lordships, and convict this lord. The particulars you will hear out of the mouths of the witnesses, whom we shall call: they will testify what share this lord had in (almost) all the parts and articles in our charge; contriving and contracting for the murder of the king, levying arms, &c. And first we call Mr. Dugdale.

L. Staff. My lords, I do conceive I have good ground to except against this man for a witness: for my own particular, I know myself as clear and free as any one here; but I will not except against him now, but reserve it against the time when I come to make my defence, and therefore admit him to be sworn, provided, my lords, that he look me full in the face.

L. H. S. My lord Stafford, What is your exception against this man that he may not be a witness?

L. Staff. I do admit him to be sworn, I say nothing now against him.

Mr. Treby. He is sworn already.

L. H. S. You swore him to give evidence as to the general Plot; you did not swear him as to the particulars against my lord Stafford.

Sir John Trevor. We are content he shall be sworn again, we pray he may be sworn.

Sir W. Jones. It is true, my lords, we did divide the evidence into two parts, but his oath was not divided: if your lordships please, you may swear them all over again, if it may be any satisfaction, but I think it was never seen before.

Then Mr. Dugdale was sworn.

L. H. S. There is Mr. Dugdale; come, sir, what say you?

L. Staff. Really he is so changed I do not know him.

Mr. Dugd. My lord, I have witnesses to prove that you know me.

L. Staff. I beg your lordships that he may look me in the face, and give his evidence, as the law is.

Sir John Trevor. My lords, if this noble lord, the prisoner at the bar, will have this witness to look him continually in the face, the court will not hear half his evidence: we desire he may address himself, as the law is, to your lordships and the judges.

L. Staff. I desire the letter of the law, which says, my accuser shall come face to face.

Mr. Dugdale. My lords, I am willing to do as your lordships shall order.

L. H. S. My lord, you do see the witness, that is enough for face to face; and you make no legal exception against him, why he should not be heard.

L. Staff. Very well, my lord, I submit.

Dugd. My lords, I have for some years past, whilst I was a servant with my lord Aston, been acquainted and frequently had discourses with my lord Stafford, before we came to discourse any thing concerning the plot on foot. Lately in 1678, my lord coming down into the country, it was either in August or September, the latter end of August, or the beginning of September.

L. Staff. I beseech your lordships he may name the times.

L. H. S. My lord, if your lordship please, do not interrupt the witnesses; but wherein he is short, do you ask him the question when it comes to your turn, I will bring it to as much certainty as I can.

Dugd. There was a meeting at Tixal, where there were several present—

L. H. S. When?

Dugd. It was in September, or the latter end of August.

L. H. S. What year?

Dugd. 1678. My lords, I had by Mr. Evers's means admittance to hear, because of my encouragement, what the discourse was at that time. It was to debate and determine upon the former resolutions both beyond sea and at London before, both to take away the life of the king, and to introduce their religion, of which I

was then one. My lord Stafford was there present, and did with the rest consent to it. Afterwards my lord Stafford being at one Mr. Abnett's of Stafford one Sunday morning in September, came to my lord Aston's house to mass: I met with my lord Stafford at some distance from the gate, and my lord speaking to me when he alighted off from his horse, told me it was a very sad thing they could not say their prayers but in an hidden manner, but here long we should have our religion established; which was much to my joy at that time. After that time my lord Stafford was sometimes at Stafford and sometimes at Tixal, I will not be positive as to a day, but I think it was about the middle of September. My lord Stafford sent for me to his lodging-chamber, as he had several times before sent for me; and said, he had had great commendations of me from Mr. Evers, that I was faithful and trusty.

L. Stafford. My lords, I desire I may have pen, ink, and paper, allowed me.

L. H. S. Ay, God forbid you should be denied that: give my lord pen, ink, and paper. I hope your lordship hath one to assist you that takes notes for you; if you have not, you have lost a great deal of time already.

L. Staff. There was one all day yesterday, my lords; I desire he may speak his evidence over again.

L. H. S. Let him begin his evidence again, for my lord had not pen, ink, nor paper, which he ought to have to help his memory.

Dugd. I may miss as to the words, but the matter of fact I shall repeat: my lords, I have been frequently acquainted whilst I was a servant at my lord Aston's with my lord Stafford coming to my lord's house in the country, and my lord being several times where I came to that intimacy by Mr. Evers's means, that my lord would frequently discourse with me. About the latter end of August, or some day in September, my lord Stafford, my lord Aston, and several other gentlemen, were in a room in my lord Aston's house, and by the means of Mr. Evers I was admitted to hear for my encouragement; and there I heard them in that debate at that time fully determine a resolution upon all the debates that had been beyond sea and at London before, that it was the best way they could resolve on to take away the life of the king, as the speediest means to introduce their own religion. After some time my lord being at Stafford at Mr. Abnett's—

L. H. S. Was my lord Stafford at that meeting where they debated to kill the king?

Dugd. My lord was there.

L. H. S. Was he consenting to that resolution?

Dugd. Yes, I heard every one give their particular full assent.

(At which there was a great hum*.)

* "Who can read, without horror, the account of that savage murmur of applause, which broke out upon one of the villains at the bar, swearing positively to Stafford's having proposed

L. H. S. What is the meaning of this? For the honour and dignity of public justice, let us not carry it as if we were in a theatre.

Dugd. My lords, some time in September, my lord Stafford being at Mr. Abnett's house in Stafford, came once upon a Sunday morning to hear mass: I meeting him at the outer gate of my lord Aston's house when he alighted off his horse, after some discourse he turned to me, and told me, It was a sad thing we could not say our prayers but in an hidden manner; but ere long, if things took effect, we should have the Romish religion established: and I at that time did seem to be, and really was as glad as any person could be. After some time I think it was about the 20th or 21st of September, my lord Stafford sent for me into his lodging-room, I think it was by his page, or him that waited upon him in his chamber; and he told me I must come to my lord; and I immediately went to his lordship, he was just then arising and dressing; he sent his man out, and told me, he had had a good account from Mr. Evers and other gentlemen, that I would be faithful and true to their intentions about the introducing their religion. He told me, he was likewise concerned himself, and that in a very high degree: and for taking away the life of the king, he offered me at that time for my charges and encouragement 500*l.* and that I should go in October after to London with him (my lord Stafford), and that I should be with him sometimes at London, and sometimes at an house of my lord Aston's, about 25 miles from London: and that I should be under the care of him in London and Mr. Ireland, and in the country of one Mr. Parsons that knew of the design. I did then shew as much resolution to be faithful to my lord as I could, and that I would be true to what my lord then engaged me. I after went to Mr. Evers, and communicated to him what my lord Stafford said, and was something in admiration at my lord's offering me such a sum of money, for I doubted of my lord's ability to make good payment. He told me, that I need not fear it, for Mr. Harcourt and Mr. Ireland had money enough in their hands to defray that and other charges; and I should not want money for the carrying it on. My lords, I remember that at another time there was a meeting, wherein there was a debate about my going up, and other businesses; my lord Stafford was present, and there were several there besides, I did not know them all then; but in the first place they told me, I should be made equal with one captain Adderly that is since dead, and that I should have a reward in London. I understood that the duke of York, my lord Arundel, and my lord Bellasis, and others, were to give it me;

the murder of the king? And how is this horror deepened, when we reflect, that in that odious cry were probably mingled the voices of men to whose memory every lover of the English constitution is bound to pay the tribute of gratitude and respect?" Fox's James the Second.

and speaking of the rewards to those that were engaged, they said, there would be land enough from the protestants to satisfy all that acted in the design. Another time my lord Stafford discoursing in the dining room in my lord Aston's house, did express his great zeal, and the reason why he was such an enemy against the king; he said, both he and my lord Aston had been great sufferers for the king, and for his father, and that my lord in particular, his grandfather or his father, had spent 30,000*l.* in the king's service, and had no recompence; that he had always shewed himself loyal to the king; but whenever there came any place of preferment to be disposed of, it was rather given to such as had been traitors and rebels to the old king, and likewise to the king himself, than to any that had been loyal. He said, this was his chief motive, if there were not religion in the case, which was of a higher nature, or to that purpose.

L. H. S. When was this last discourse?

Dugd. In September 1678, as near as I remember, for we had several discourses.

L. H. S. This was not the time you were at my lord's chamber?

Dugd. No, it was in my lord Aston's dining room.

L. H. S. No, nor when he sent for you to offer you the 500*l.*?

Dugd. No, not at that time, it was another time.

L. H. S. What month and year?

Dugd. September 1678, my lord.

Mr. Foley. I desire he may give your lordships an account what assurance he had of pardon, if he did succeed.

Dugd. I was told I need not fear; and particularly my lord Stafford told me, I should have a free pardon for it; for the king had been excommunicated, and was likewise a traitor, and a rebel, and an enemy to Jesus Christ.

L. H. S. But how could you be pardoned? From whom were you to have that pardon?

Dugd. I was to be pardoned by the pope.

L. H. S. That was for your sins.

Dugd. Yes; I expected no other, if I had gone on.

Mr. Treby. Were you promised nothing else but a pardon from the pope?

Dugd. Yes, I was to be sainted.

Sir W. Jones. Will his lordship please to ask him any questions? We ask him no more.

Mr. Foley. Yes, I desire another question may be asked him: That he would give an account of the letters my lord Stafford writ to Evers, about the design.

L. H. S. What say you to that question?

Dugd. There came a letter to Evers from my lord Stafford; I know it to be my lord's hand: some might counterfeit his hand; but as near as a man can swear to the hand of another in a paper he did not see written, that was my lord's hand: That things went all well beyond sea, and so he did hope they did here, for the carrying on of the design: It was to this purpose expressly.

Mr. Treby, We have done, my lords, with him.

L. H. S. My lord Stafford, will you ask him any questions?

L. Staff. My lords, I have divers questions to ask him, very many; but I humbly crave your lordships directions, if I ask him any questions now, whether I may not ask him some afterwards?

L. H. S. My lord, you may ask questions of the witnesses as often as you please, and whenever you find it useful to you: God forbid there should be any time to foreclose a man from asking a question that may save his life.

L. Staff. I pray he may be asked how long before this time he knew of the Plot.

L. H. S. How long have you known this Plot?

Dugd. In general, for the introducing of the Popish religion, and the encouragement to it by the duke of York's being successor, I have known it 15 or 16 years by the means of Mr. Evers.

L. Staff. My lords, I understand him, he says he knew the Plot 15 or 16 years ago; if I be not mistaken, he says so.

Dugd. My lords, if your lordships please to give me leave to explain myself further, it was not for taking away the life of the king, but for making ready against the king died, with men and arms.

L. Staff. My lords, he says in the latter end of August, or beginning of September, I told him such and such things; I desire he may name the day; that may be many days, and I may prove I was not there; and I can prove for all August, and a good while in September; therefore I desire he may name the day.

L. H. S. My lord Stafford, I come thus near on purpose to serve your lordship, that you may not strain your voice too much; but I am not so happy as to apprehend what it is you say.

L. Staff. My lords, I say, he speaks of the latter end of August, or the beginning of September; which is too great a latitude, and I conceive more than ought to be given in such a matter of importance as this is to me; I desire he may name the day, for he may name days, perhaps, that I was not there.

L. H. S. Look you, Mr. Dugdale; my lord does desire, if you can, you would be a little more particular than about the latter end of August, or the beginning of September; if you can remember the day, tell it us:

Dugd. I cannot remember particular days, it being a thing I then took no account of; only this I do remember by a remarkable circumstance, that one time was either the 20th or 21st of September, 1678.

L. H. S. That was the time of your coming into his chamber, and his offering you 500*l*.?

Dugd. It was so; but other meetings I dare not charge to a day.

L. Staff. How then can I make my defence?

Dugd. I will stand to that time.

VOL. VII.

L. Staff. How, my lords, can I be able to give an account of it? I shall prove to your lordships, that he once said it was in August, now he says it was in August or September. I beseech you that he may positively stand to the month, if not to the day.

Dugd. I speak as near as I can.

L. Staff. But he says the 20th or 21st particularly.

Dugd. Thereabouts I am sure it was.

L. Staff. Look you, he will be positive in nothing.—Dugd. I will stand to that time.

L. Staff. If he swears false in one thing, I hope, upon proof of that, your lordships will believe he may be false in all. I pray he may be asked what hour of the day it was, whether it was morning or afternoon.

L. H. S. He is positive only to the 20th or 21st of September, the time when he says you called for him into your chamber, and offered him 500*l*. to kill the king: would your lordship ask him whether it were in the forenoon or the afternoon?

L. Staff. Yes, my lord, I would.

L. H. S. Was it in the forenoon or in the afternoon?

Dugd. It was in the forenoon; for I did formerly speak of that, he was dressing himself when I came in.

L. H. S. Then that is answered positively.

L. Staff. My lords, he says one Sunday morning I came to my lord Aston's to mass, I desire you would please to ask him, whether ever he saw Mr. Evers and me in his life alone together?

L. H. S. Have you seen my lord Stafford and Mr. Evers ever together alone?

Dugd. Several times I have seen them walking together in the garden, and in the walks, at my lord Aston's; and I have been with them myself when there hath been only them two besides.

L. H. S. That is answered fully; will your lordship ask him any thing else?

L. Staff. He says he was to go to London in October with me, I stand not upon that till I come to make my answer; but I take it, he says the 20th or 21st of September, when I offered him 500*l*. in my chamber, to kill the king, that he went presently to Evers to speak with him about it.

L. H. S. As doubting the payment of the money, and he told him, that Harcourt and Ireland* would pay it.

L. Staff. Was it the same day? pray ask him, my lords.

Dugd. I do not say it was the same day, but it was the next time I could come to speak with him.

L. H. S. He tells you, it was as soon as he could speak with him.

L. Staff. He said before, it was presently after he went from me. I desire your lordships would take notice how he contradicts himself in every circumstance.

* See their Case, *ante*, pp. 79, 311 of this vol.
4 R

L. H. S. What say you, did you go presently to Mr. Evers after my lord Stafford had made the offer, or was it the same day, or the next day?

Dugd. To the best of my remembrance, it was the same day; I can't say positively.

L. Staff. My lords, I have no other questions with Dugdale.

Sir J. Trevor. Then, my lords, we will call another witness.

L. H. S. Have you no more to say to Dugdale, my lord?

L. Staff. Not at present, till I come to make my defence.

L. H. S. God forbid, but you should have leave to say all that you can for yourself.

Mr. Treby. Then set up Dr. Oates. Do your lordships require that he should be sworn again?

L. Staff. I desire nothing, nor propose it, if he will declare upon his oath that he took yesterday.

L. H. S. Hark you, Dr. Oates, this is but a continuation of the proceedings yesterday; you are upon the same oath now that you were then, and what you say this morning will be taken to be upon the same oath.

Mr. Treby. Dr. Oates, upon the oath you have taken yesterday—

L. H. S. Pray swear him again. (Which was done.)

Mr. Treby. Dr. Oates, pray speak your knowledge of my lord Stafford's being engaged in the design.

Oates. I desire I may be left to my own method.

L. H. S. Go on in your own method.

Oates. My lords, in the year 1667, there were divers attempts upon the life of the king, as the Jesuits told me; and in the year 1674, there was an attempt upon the account of the king's withdrawing the indulgence in 1674 and 1675: in the year 1677, whilst I was in Spain, I met with several letters signed Stafford, wherein my lord Stafford did assure the Jesuits in Spain, that were of the Irish nation, how zealous he should appear in the promoting of the Catholic design. My lords, in the year 1677 I went to St. Omers, and I came there in December. My lords, in that year I being ordered to look over the papers, and put them in order, I found several letters signed Stafford; wherein my lord Stafford did intimate to the Fathers, that whereas there had been some difference betwixt him and the Society for several years, the business was reconciled by one Signior Con, who came over into England in the year 1676, to reconcile the great difference that was betwixt the Jesuits and the secular clergy, and between the Benedictine monks and the Jesuits. My lords, my lord Stafford, upon the persuasion of this Signior Con, as he does intimate in his letter, does assure the Jesuits of his fidelity and his zeal. My lords, in the year 1678, I found letters from my lord Stafford, wherein he does blame Mr. Coleman's openness, and his being too public in the great

affair, and that Mr. Coleman was pleased to communicate several great secrets to men, of whose fidelity his lordship was not secure. My lords, in 1678, in the month of June, my lord Stafford, the prisoner at the bar, came to Mr. Fenwick, and there received a commission from him to pay an army that was to be raised for the promoting of the Catholic interest; and he did assure Mr. Fenwick that he was going down into Staffordshire, and there he did not question but he should have a good account how the Catholics stood affected; and he did not question but to give a good account how affairs stood in Staffordshire, Shropshire and Lancashire; and this commission to my lord Stafford was, as near as I can remember, to be pay-master-general of the army. My lords, among other discourses with my lord at the bar, he was discoursing about my lord duke of Norfolk, and my lord Arundel his son; and after several other passages, he (Fenwick) was asking of him how my lord Arundel came to have a Jesuit in his house. My lord Stafford did say, that my lord of Peterborough, his father-in-law, was instrumental in it, on purpose to oblige the duke of York; for my lord Arundel, as I have been told, kept Father Symonds in his house, who to my knowledge was a Jesuit. But, my lords, he came to Mr. Fenwick's (my lord Stafford did) by the name of Mr. Howard of Effingham.

L. H. S. Were you at Fenwick's when my lord Stafford came to his chamber?

Oates. Yes, my lord.

L. H. S. Look upon my lord Stafford, is that the same person?

Oates. It is the same gentleman that came there by the name of Howard of Effingham.

L. H. S. And he took the commission?

Oates. Yes, he did so.

L. H. S. And he promised to effect it?

Oates. Yes, and he said that he was then going down in the country, and he did not doubt but at his return Grove should do the business.

L. H. S. Who said so, Fenwick?

Oates. No, my lord Stafford. And says Fenwick to my lord Stafford again, Sir, it is fit that some should be here present, lest you fail of your expectation; or to that purpose. It is two years since, and I cannot remember the words, but my lord Stafford did say, he was of necessity to go into the country at that time. And there he did write a letter to St. Omers, in which he did excuse himself about a young man that was to be sent to the Jesuits college, whom he had taken care of another way. And he desired their excuse, but he would be as faithful to them as anybody, for all that. And the same hand that wrote that letter, by all the comparing I could make in my thoughts, wrote all the other letters that I saw at St. Omers, and in Spain. My lords, I saw my lord Stafford at Dr. Perrott's I think verily it was in June or July 1678; it was before the rising of the parliament that sat that summer, and my lord Stafford was discoursing

of a son he was to send over to Lisbon, and he went over by the name of Sir John Stafford. And after this discourse was over they fell into a discourse of the affairs in hand, and my lord was mighty glad there was so good a correspondence and concord, though, my lords, it was not very great; for the Jesuits had an irreconcilable quarrel with the rest of the clergy: but my lord did hope that their fair correspondence might tend highly to the advancing the Catholic cause. But, my lords, I have one thing more to speak as to the discourse at Fenwick's chamber; speaking of the king he said, he hath deceived us a great while, and we can bear no longer.

L. H. S. Who said so?

Oates. My lord Stafford, the gentlemen at the bar.

L. H. S. When was that? At Dr. Perrott's?

Oates. No, I speak of a passage at Fenwick's which I had forgot, my lords, this is all I can remember at present.

Mr. Foley. My lords, I desire he may give an account what letters my Lord Stafford sent to Fenwick and Ireland to pay money.

Oates. There was some money returned, but it was no great sum, and it was about private business: Mr. Morgan was to receive it: I chanced to have the money in my own keeping: Mr. Fenwick gave it me to pay to Mr. Morgan, and the letter in which the sum was mentioned did give them an account (for it was out of Staffordshire), that he found things stand in a very good state there. But I being not within, Mr. Morgan called on Mr. Fenwick for the money, which I returned to him when he had paid it.

L. Staff. My lords, I do, in the first place, desire to know where Mr. Fenwick lived.

L. H. S. Where did Mr. Fenwick live when you saw my lord at his chamber, and the commission delivered?

Oates. His lordship, I suppose, knows very well where he lived, he lived in Drury Lane.

L. Staff. I will submit to any thing, if ever I saw the man, or heard of him till the discovery of the Plot.

Oates. He came to him by the name of Thompson.

L. H. S. Your lordship does not observe; your lordship says that you never knew any Fenwick, but your lordship knew one Thompson, and that Thompson was Fenwick.

L. Staff. I did know one Thompson, but that Thompson I knew was an English merchant in Brussels, and not a Jesuit.

Oates. I cannot say what my lord knows, that he knew Fenwick to be a Jesuit, but he knew one Thompson, that was Fenwick the Jesuit.

L. Staff. I never heard of the name till this Plot.

Oates. But if your lordship please, I will give you a reason why I believe he knew him to be a Jesuit, because the Society was very

often in their mouths in their discourses; which gives me a ground to believe he knew him to be what he was: But, my lord, he took his commission from him.

L. Staff. I desire he may be asked——

L. H. S. Good my lord, raise your voice, for I am come half way to hear you.

L. Staff. Pray, my lords, give me leave to ask him, whether Dr. Oates hath not said several times since I was first imprisoned, that he never saw me in his life. I think I was imprisoned the 21st of October 1678.

Oates. My lords, I never said any such thing.

L. Staff. I will willingly die, if ever I saw this doctor in my life.

Oates. I excuse my lord for that, for I was in another habit, and I went by another name, and your lordships do remember I came in another habit to make the first discovery.

L. Staff. My lord, I never saw his face nor know him, nor Fenwick, or Thompson, otherwise than one Thompson, a merchant at Brussels.

Oates. But my lords, I have one thing more to say of my lord Stafford; my lord Stafford went into France, I cannot say the year but I believe it is within the term of six or seven, but he went over to France; and it did appear by letters from him, that Signior Con was made choice of to heal the difference between the Regulars and the Seculars; and Signior Con did come over in the year 1676, and there did make a kind of a peace among them, which lasted whilst Con stayed here, and Con did bring over messages, to which my lord Stafford (if he tells any truth in his own letter) did return answers.

L. Staff. For the present, all I say to it is this, I never writ any one letter this 25 years, nor had any any correspondence with any Jesuit.

L. H. S. I beseech you, my lord, make me capable of serving your lordship, by letting me hear what you say.

L. Staff. My lord, I have a great cold, and can speak no louder; I desire to ask this witness no more questions at present, but I say, I never writ any letters to any priest this 25 years.

Mr. Foley. Then my lords, if my lord hath done, we will call another witness, and that is Mr. Edward Turberville.* (Who was sworn.)

* Of this man, Burnet says, "Another witness appeared against lord Stafford, one Turberville; who swore, that in the year 1675 the lord Stafford had taken much pains to persuade him to kill the king: he began the proposition to him at Paris; and sent him by the way of Dieppe over to England, telling him that he intended to follow by the same road: but he wrote afterwards to him that he was to go by Calais. But he said he never went to see him upon his coming to England. Turberville swore the year wrong at first: but upon recollection he went and corrected that error."

L. H. S. Look upon the prisoner. Do you know my lord Stafford?

Mr. Turberville. Yes, my lord.

L. H. S. Raise your voice, and speak deliberately.

Mr. Tieby. Give an account of your knowledge, and use your own method.

Turberville. My lords, in the year 1675 I was persuaded by my lady Powis, and one Morgan that was confessor to the family, to go to Doway, in order to take upon me the frier's habit. When I came there, instead of religion, I found nothing but hypocrisy and villainy among them, and quickly grew weary of staying there, and with much difficulty I escaped thence to go for England: When I came into England, I did think that my friends would look unkindly upon me, because I refused to live in that way that they proposed to me to live in. I used all the means I could to have them reconciled, and

This at such a distance of time seemed to be no great matter: It seemed much stranger that after such discourses once begun he should never go near the lord Stafford; and that lord Stafford should never enquire after him. But there was a much more material objection to him. Turberville, upon discourse with some in St. Martin's parish, seemed inclined to change his religion: they brought him to Dr. Lloyd, then their minister: and he convinced him so fully that he changed upon it: and after that he came often to him, and was chiefly supported by him: for some months he was constantly at his table. Lloyd had pressed him to recollect all that he had heard among the papists relating to plots and designs against the king or the nation. He said that which all the converts at that time said often, that they had it among them that within a very little while their religion would be set up in England; and that some of them said, a great deal of blood would be shed before it could be brought about: but he protested that he knew no particulars. After some months dependance on Lloyd he withdrew entirely from him; and he saw him no more till he appeared now an evidence against lord Stafford: Lloyd was in great difficulties upon that occasion. It had been often declared, that the most solemn denials of witnesses before they make discoveries did not at all invalidate their evidence; and that it imported no more, but that they had been so long firm to their promise of revealing nothing: so that this negative evidence against Turberville could have done lord Stafford no service. On the other hand, considering the load that already lay on Lloyd on the account of Berry's business, and that his being a little before this time promoted to be bishop of St. Asaph was imputed to that, it was visible that his discovering this against Turberville would have aggravated those censures, and very much blasted him. In opposition to all this there was a justice to be done, and a service to truth, towards the saving a man's life: and the question was very hard to be determined. He advised

made application to them, that since I could not bear with the life they would have had me lived in, they would contrive some way for me, being a younger brother, that I might live in the world, but they were so averse and inveterate against me, that they told me, instead of doing any thing for me, they would do me all the mischief and prejudice they could; and having lived all my time among them, I thought the world would receive a character of me from them who were my relations, as they would please to represent it. So having no hopes in England, I took a resolution to go into France, where I had a brother that was a Benedictine monk: And I hoped that he being in good repute amongst them, might be able to do me some service there. When I came to Paris, my brother used all the endeavours imaginable to get me to be of that order; but I having so ill a conceit and opinion of the order that I was

with all his friends, and with myself in particular. The much greater number were of opinion that he ought to be silent. I said, my own behaviour in Staley's affair shewed what I would do if I was in that case: but his circumstances were very different: So I concurred with the rest as to him. He had another load on him: he had writ a book with very sincere intentions, but upon a very tender point: he proposed, that a discrimination should be made between the regular priests that were in a dependance and under directions from Rome, and the secular priests that would renounce the pope's deposing power and his infallibility: he thought this would raise heats among themselves, and draw censures from Rome on the seculars, which in conclusion might have very good effects. This was very plausibly writ, and designed with great sincerity: but angry men said, all this was intended only to take off so much from the apprehensions that the nation had of popery, and to give a milder idea of a great body among them: and as soon as it had that effect it was probable that all the missionaries would have leave given them to put on that disguise, and to take those discriminating tests till they had once prevailed; and then they would throw them off. Thus the most zealous man against popery that I ever yet knew, and the man of the most entire sincerity, was so heavily censured at this time, that it was not thought fit, nor indeed safe, for him to declare what he knew concerning Turberville."

Mr. Hargrave in his unpublished "Opinion and Argument," of which I propose at the end of this case to give some account, animadverts with much severity upon the conduct of bishop Lloyd, and more particularly upon that of bishop Burnet, in this transaction.

Burnet's contrast of his own behaviour on the case of Carstairs with that of Lloyd in the case of Turberville, seems to be exhibited with somewhat less of delicacy than might have been due to the friendship between the two bishops. See as Carstairs v. 6, pp. 1415, 1420, 1502, 1504.

in before, and thinking all the rest were the same, I was unwilling at all to enter into it. And after I staid there awhile, I resolved to come over into England. My brother used all the means he could for my accommodation, and recommended me to this noble lord, the prisoner at the bar, who lodged then at a corner-house in a street which, as I remember, bears the name of La Rue de Beaufort, where I was several times with him, in order to come over with him in the yacht for England. After I had been there for a fortnight with this lord, he understanding my condition, by my brother, and by the other fathers of that convent, and imagining I was a fit instrument to be employed on such an occasion, proposed to me a way, whereby, as he said, I might not only retrieve my reputation with my relations, but also make myself a very happy man: And after having exacted from me all the obligations of secrecy which I could give him, he at length told me in direct terms, it was to take away the life of the king of England, who was an heretic, and consequently a rebel against God Almighty. I looked upon it as an extraordinary attempt, and desired time to consider of it before I would undertake it. And I gave him this answer, I would give him my resolution at Dieppe, where we were to go on board for England. And when I came to take my leave of this noble lord at the bar, he was sitting upon the bench, and he was troubled with the gout in his foot at that time. And he told me he had some business to go to Versailles, and that he should not be in 6 or 7 days at Dieppe, where I was to wait for him. After a while, I received a letter at Dieppe from his lordship, wherein he writ me word, that he had altered his resolution, and would go by the way of Calais, and that I should hasten to wait on his lordship at London. I have one thing more to observe to your lordships: When I got passage from Dieppe, in a fisher-boat for England, I never came near my lord Stafford, because being not willing to undertake his proposal, I thought myself not safe, even from my own relations; and therefore I made my applications to the duke of Monmouth, and his grace was pleased by letter to recommend me into the French service, and by that means I avoided his lordship's further importunity.

L. H. S. You say, my lord did propose to you the killing of the king; did he plainly make the proposal in direct terms to kill the king?

Tur. Yes, he did, my lord.

L. H. S. What did he offer you to do it?

Tur. Nothing, for I would not accept of it. I told him it was a matter of great concernment, and I ought to consider of it; and I took time to think of it, and would give him my answer at Dieppe, which he came not to; and so there was an end of it.

L. H. S. What engagements of secrecy had you given my lord, before he opened himself so plainly to you?

Tur. I gave my lord my word and my promise, that I would not discover it to any person

directly or indirectly; my lord had nothing of an oath from me.

L. H. S. Will you ask him any more questions, gentlemen?

Sir W. Jones. No, my lords.

L. H. S. Will your lordship ask him any questions, my lord Stafford?

L. Staff. My lord, I never saw the man before in my life. I will ask him one question, since he hath been pleased to swear against me.

Tur. My lords, I had no reason but the truth to do it; for I never received any injury from his lordship in my life.

L. Staff. It seems I had ill luck to chuse this man for an attempt to kill the king, who was such a coward he ran away from his colours, and was to have been shot to death.

Tur. Ask the duke of Monmouth what character he received of me.

L. Staff. He says, in the year 1675 he went from London to Douay, and staid some time there, and then came back to England; I beseech your lordships to ask him what time he went back to Paris.

L. H. S. What time was it you went back to Paris?

Tur. Truly, my lord, I cannot be punctual to a fortnight, but I believe it was the beginning of June.

L. H. S. What year?

Tur. 1675.

L. Staff. My lords, I would know who recommended him to me to go over with me into England?

L. H. S. Who recommended you to my lord Stafford to go into England?

Tur. My lords, it was Father Sherborn, who was then prior of the Benedictine monks in Paris, and Father Nelson, sub-prior of those monks, and my brother, who is a monk in the same convent.

L. H. S. He says, that there were three persons that recommended him to your lordship.

L. Staff. I never saw them in my life.

Tur. Your lordship, that says I was a coward, and run away from my colours, will say any thing.

Ld. Staff. I not only say it, but will prove it by two witnesses.

Tur. Do it if you can.

Ld. Staff. He says, in the beginning of June 1675 he went into France. I desire to know of him, when was it he spoke to me.

Tur. In November 1675.

Ld. Staff. He says in November.

Tur. Yes, my lord, about the beginning of November.

Ld. Staff. I beseech your lordship, where was it he spoke to me?

L. H. S. Turberville, where was it you spoke to my lord?

Tur. In Paris.

Ld. Staff. Whereabouts in Paris?

Tur. It was the corner house of the street, which street faces Luxenburgh-house; the prince of Conde lodges on the right hand in

that street, I take it to be so, and you lodged at the corner house; I think the name of the street was La Rue de Beaufort.

Ld. Staff. Which if the prince of Conde did — I will say no more.

Tur. I cannot be upon my oath in such cases, but I think he does, I take it so.

Ld. Staff. He says he was with me a fortnight, what does he mean?

Tur. I came to my lord several times in the space of a fortnight.

Ld. Staff. I desire to know who brought him to me?

Tur. Father Sherborn, Father Nelson, and my brother Father Anthony Turberville; and sometimes I came alone.

L. H. S. He says, those three Fathers recommended him to your lordship, and he came himself several times.

Tur. Yes, my Lords, it is true.

Ld. Staff. I beseech your lordships, did he come directly to my chamber, or where?

Tur. Sometimes to my lord's chamber, and at other times I met him in a lower room.

Ld. Staff. It concerns me much, my lords; and though they be foolish questions, yet I hope your lordships will pardon me if I ask them. Where was this discourse about killing the king?

L. H. S. Was this discourse in the chamber, or in the lower room?—*Tur.* In the lower room.

Ld. Staff. He says, I think, that he hath been in my chamber.

L. H. S. Have you been in my lord's chamber as well as in the lower room?

Tur. Yes, my lord, I have.

Ld. Staff. What kind of room is it?

Tur. I can't remember that.

Ld. Staff. No, I dare swear you can't.

Tur. I cannot tell the particulars; what stools and chairs were in the room.

Ld. Staff. My lords, I have no more to say to him at present.

L. H. S. Mr. Turberville, how long have you been in England?

Tur. I cannot answer punctually; I have been in England near 4 years.

L. H. S. How came it to pass that you never discovered this sooner?

Tur. I had no faith to believe that I should be safe if I did it, but my brains might be knocked out; and that kept me off from doing that service which I might be better able to do, if I did defer it.

L. H. S. How come you to discover it now?

Tur. The king's Proclamation, and some friends that have persuaded me that I may do it with safety, who will give your lordships an account of it.

Ld. Staff. I desire he may attend when I make my defence.

Tur. Yes, I shall: but I am sorry his lordship hath so ill a memory as to what passed between us. I shall be very unwilling to do his lordship or any body else any injury, but I must tell the truth.

Sir W. Jones. My lords, we shall call no

more witnesses, unless my lord, the prisoner, give us an occasion. If he shall make any objections to any of our witnesses, I hope we shall have liberty to call witnesses to support them; but we give over at present, and expect his lordship's answer.

Ld. Staff. May it please your lordships, I beseech your lordships, before I say any thing, that I may know if they have any more witnesses to examine.

L. H. S. They say they will call no more evidence, unless your lordship's answer do give them occasion to fortify their witnesses you except against.

*Lord Stafford.** My lords, It is now about two years that I have had the misfortune to be accused of this detestable treason. I have been several times in these two years a close prisoner, that my wife and children were denied to come near me; and hardly a servant permitted to ask how I did, but at the door of my prison. My lords, this was a great and an heavy affliction to me; that truly I did not know how to bear it. It is true, I had that comfort, that I did hope I should soon come to my trial, and before your lordships make my innocency appear. In order to which, I did all I could, having heard this Hall was provided for it: and I did expect in a very few days to clear myself before your lordships and all the world. When I had settled my mind, and did not foresee any greater affliction that could befall me, I had on a sudden, by some of my friends, a sad message sent me, That the House of Commons had impeached me of high treason. My lords, I looked upon the House of Commons then (as I do now) as the great representative body of the Commons of England; and I confess, my lords, to be accused by them was a load, especially being added to what lay before upon me, more especially to my weak body and weaker mind, that I was so afflicted with it, and have so continued, that I am scarce yet able to bear up under it: for I look upon the House of Commons as the great and worthy patriots of this kingdom; I ever held them so, and I hold them so still. My lords, these things being such great afflictions to me, and some other accidents, which I shall not trouble your lordships with telling you of, have so much disordered my sense and reason (which before was little), that I scarce know how to clear myself to your lordships as I ought to do; or which way to go about the doing of it; therefore I do with all humility beg your lordships pardon if I say any thing that may give an offence, or urge that which may not be to the purpose. All which I desire you would be pleased to attribute to the true cause, my want of understanding, not of innocency, or a desire to make it appear.

* Mr. Hargrave in his unpublished 'Opinion and Argument as to the Right of lady A. S. Howard to the new barony of Stafford, &c.' (p. 124. et seq.) has selected with very powerful effect some instances of lord Stafford's manner of defending himself.

My lords, these gentlemen the Managers of the House of Commons, who are great and able men, some I am sure, if not all of them very well read, and have understanding in the law, have set forth to your lordships treason in an horrid shape; but I confess, my lords, if they had made it never so much worse, it cannot be so horrid as I have often fancied it myself: For, my lords, I do, and did ever hold treason to be the greatest sin in the world, and I cannot use words enough to express it; and therefore I hope you will give me leave to clear myself of it, and I shall give you one notion of it, which I heard at your lordships bar some years ago, where you were pleased to hear several people of several persuasions give you some reason why liberty of conscience should be allowed them. And I remember one of them, an Anabaptist, I think, did tell you, That they held treason to be the sin of witchcraft, and so do I. And next to treason, I hold murder to be the worst sin. But the murder of the king I looked upon to be so above all others, that it is not to be expressed by words.

My Lords, I have heard very much of a thing that was named by these gentlemen of the House of Commons, and that very properly too, to wit, of the Gunpowder Treason. My lords, I was not born then, but some years after I heard very much discourse of it, and very various reports; and I made a particular enquiry, perhaps more than any one person did else, both of my father who was alive then, and my uncle, and others; and I am satisfied, and do clearly believe, by the evidence I have received, that that thing called the Gunpowder-Treason, was a wicked and horrid design (among the rest) of some of the Jesuits: and I think the malice of the Jesuits, or the wit of man, cannot offer an excuse for it, it was so execrable a thing. Besides, my lords, I was acquainted with one of them that was concerned in it, who had his pardon, and lived many years after: I discoursed with him about it, and he confessed it, and said, he was sorry for it then; and I here declare to your lordships, that I never heard any one of the Church of Rome speak a good word of it: it was so horrid a thing, that it cannot be expressed or excused. And God Almighty shewed his judgments upon them for their wickedness; for hardly any of the persons, or their posterity, are left, that were concerned in it, and even a very great family too, that had collaterally something to do in it, is in the male line extinct totally; and I do think God Almighty always shews his judgments upon such vile actions. I have been told, all those persons that were engaged in this wicked act, were all heartily sorry for it, and repented of it before they died, without which I am sure there is no salvation. And therefore I think it was not the interest of religion, but a private interest put them upon it.

My Lords, as to the doctrine of King-killing, and absolving persons from their allegiance, I cannot say the Church of Rome does not hold

it; I never heard it did hold it; it may be it does, it may be not: I say not one thing or other: but, my lords, there was an English college of priests at Rheims, that translated the bible, and printed it with authority, according to their translation; and in their annotations upon the 14th chapter to the Romans, they do declare their dislike and detestation of that opinion. They say, all subjects ought to obey their kings, as the primitive Christians did the heathen princes of the empire; and the learned doctors of the college at Sorbonne, did upon an occasion administered to them about that opinion, declare the mistakes that were in it, and owned it to be a damnable principle. My lords, I have an authentical copy of that decree of the Sorbonnists, whether it be here or no, I cannot tell—Yes, here it is, which does declare that a damnable position; and there is lately come out a book, written by a priest of the Church of Rome, tried for his life for being in the Plot, but acquitted of that, in which he says, That that opinion of killing kings is damnable and heretical, and declared so by the council of Trent.

My Lords, this gives me occasion to believe that the Church of Rome holds it not. I do not say that it does not; but some particular persons do abhor it, which are great in that church, and which weighs far with me: but that which furthestmost of all confirms me in my ill opinion of it, is the words of our Saviour, when not only he commands us to give unto Cæsar the things that are Cæsar's, but asserts our obedience to our governors in many other passages of the Holy Scripture; and what I find there, the whole world is not able to alter my opinion of. I do assure your lordships in the presence of Almighty God, that I do extremely admire when I hear of any thing like it; and I did read with great horror what I found the other day in the Gazette, of some imprudent people in Scotland, and of their wicked principles and practices.

My Lords, I do in the presence of Almighty God, who knows and sees all things, and of his angels which are continually about us, and of your lordships who are my peers and judges, solemnly profess and declare, that I hate and detest any such opinion, as I do damnation to myself. And I cannot be more desirous of salvation to myself, than I am cordial in hating this opinion.

My Lords, I know no person upon earth, nor all the persons in the world put together, nor all the power they have, can in the least absolve me of my allegiance. And I do acknowledge the king is my sovereign, and I ought to obey him as far as the law of the land obliges any subject of his to obey him: whether I have taken the oath of allegiance, I appeal to your lordships to be my witnesses; and if I did not take it a thousand times for my allegiance to the king, if required, I should think I deserved a thousand deaths, and all the torments in the world for refusing it.

My Lords, these gentlemen here did begin

their Charge (serjeant Maynard, and sir Francis Winnington) with telling your lordships there was an horrid Design to murder the king, to alter the government, and introduce the popish religion. This, they say, was engaged in by the Roman Catholics; that all the Church of Rome were the contrivers of it; for they tell your lordships, the whole body hath been engaged in it, and they have given you many proofs by witnesses examined the first day, of a general Plot: what credit you will give to them, I leave to your lordships in the end of the case; but still they said it was the body of the Roman Catholics in England, or the papists, or what they call them, that were the plotters in this design. But I beseech your lordships, how am I concerned in it? for I must say to your lordships, they have not offered one proof that I am of that religion. So that though any of you should have seen me at the exercises of that religion, or otherwise know it of yourselves, yet if there be no proof judicially before you, you are not to take notice of it. I have heard, if a man be accused of a crime, and be to be tried, and no evidence come in; if every man of the jury were sure that the fact was done, yet they must go upon the evidence produced to them, and not upon their own knowledge. So then, no evidence being produced before your lordships, about my being a papist, you are not to take me for such a one. But, my lords, if I were of that church, and that were never so well proved too, I hope I have an advantage in it, that I have kept myself from being poisoned with so wicked a principle, or engaged with the rest in so ill a thing.

My Lords, I am here accused of having endeavoured to kill the king. I find by the law, upon reading sir Edward Coke, since my imprisonment, That all accusations of Treason ought to be accompanied with circumstances antecedent, concomitant, and subsequent; but I conceive, my Lords, there is no title of any such thing proved against me. The whole compass of my life, from my infancy, hath been clear otherwise. In the beginning of the late unhappy times, the late king, of happy and glorious memory, did me the honour to make me a peer; and thinking that my presence might rather prejudice him than serve him, my wife and I settled at Antwerp when the war begun, where I might have lived, though obscurely, yet safely; but I was not satisfied in my conscience to see my king in so much disorder, and I not endeavour to serve him what I could, to free him from his troubles. And I did come into England, and served his majesty faithfully and loyally, as long as he lived. And some of your lordships here know whether I did not wait upon the now king in his exile, from which he was happily restored; which shews I had no ill intention then.

My Lords, I hope this I have said does shew, that my life hath given no countenance to this accusation, but clear contrary to what these (I hope I may call them so, and I doubt not to prove them so) perjured villains say against me.

My Lords, after I had this misfortune to be thus accused, about a month or six weeks after, your lordships were pleased to send two members of this honourable body to me, (I do not see them at present here) to examine me about the Plot: (they were my lord of Bridgewater, and my lord of Essex) if they be here, I appeal to them what I did say. These two, after they had examined me, told me, they did believe and could almost assure me, that if I would confess my fault, and let them know the particulars of it, your lordships would intercede with the king for my pardon; but I then, as I ought, asserted my own innocency. Not long after, the king, out of his grace and goodness to me, sent six of the council to the Tower, to offer me, That though I was never so guilty, yet if I would confess, I should have my pardon. I did then consider with myself; I could not imagine what ground there was to believe your lordships could have evidence of what there was not, to bring me in Guilty; and thereupon I was so far from being able to make a discovery, that I could not invent any thing that might save my life, if I would.

My lords, I was seven days in the country after I heard of the Plot; if I had known myself guilty, I should surely have run away. As I came to London, when I was at Litchfield, there met me two of my lords; they told me, and so did a gentleman of the House of Commons, how much there was in the Plot, which, if I had had a hand in it, would certainly make me fly for it. I have ever heard, when a man is accused or suspected of a crime, flight is a great sign of guilt; and that it is often asked of the jury, though there be no certain positive evidence of the fact, whether a man fled or no? As that is a sign of guilt, so remaining is a sign of innocency. If then after notice I come to town, and suffer myself to be taken; if after imprisonment and accusation, I refuse my pardon, and yet had been guilty, I ought to die for my folly as well as my crime.

My Lords, It is a great offence to commit treason, and a great addition to continue obstinate, when upon acknowledgment a man can save his life; nay, my lords, if I should have refused these offers, and yet known myself guilty, I had at the same time been guilty of one of the greatest sins in the world, as being the cause of my own death. And as I hold, next to treason, murder the greatest sin, so I hold of all murders self-murder to be the greatest; nay, I do not think any man living can pardon that sin of murder. And I do profess to your lordships, in the presence of Almighty God, that if I could immediately, by the death of this impudent fellow Dugdale, who hath done me so much wrong, make myself the greatest man in the world that is or ever was, I profess before God I would not. I cannot say my charity is so great, but that I should be glad to see him suffer those punishments the law can inflict upon him for his crimes; but his death I would not have. Blood is so great a crime, and I know every man is careful of

giving his voice in the case of blood, I should be very cautious myself; and if I were a judge, I would rather save twenty guilty, than condemn one innocent. I bless God, I have not the least desire of the death of any man, and would not for all the world have innocent blood lie upon me.

I beg your lordships pardon that I have troubled you thus long: I shall now, as well as I can, apply myself to my particular defence. I do, my lords, before I can go on to it, desire I may have such Depositions as have been taken against me, and the liberty to look upon your Journal-Book when I have occasion. I do particularly desire the Depositions of Oates, upon which I was committed by my lord chief justice; the two Depositions of Stephen Dugdale, taken at Stafford before two justices of the peace, Mr. Lane and Mr. Vernon; I desire the Depositions taken before, I think it was Mr. Warcup and sir William Poultney, or some other two justices, which was made by Turberville; and then I shall compare their testimonies together, and I hope shall give you a clear account that they are perjured persons. How without these to go on to my just defence, I cannot well tell.

L. H. S. What do you say to it, gentlemen? You hear what my lord prays.

Sir F. Win. The witnesses are here, and have been heard *viva voce*: as we cannot use any of the depositions of which he speaks, so no more can they be used by him.

L. H. S. If I understand my lord aright; this is the thing he desires: says he, You have brought witnesses against me *viva voce*; they have been examined here, and they have been examined elsewhere, and their Depositions are upon record: I desire to confront what they have said here, with what they have said contrary in other places.

Serj. Mayn. If there be any thing expressed by my lord, wherein they have contradicted themselves, and produce that deposition, he may do that; but to desire to have all the depositions that have been made by our witnesses, is a strange request. When there is occasion to use them upon any particular point, he may produce them if he can.

L. H. S. Can you object why my lord should not have copies of any thing that is upon the Journal and Depositions that are sworn before a magistrate, which may be of use to him?

Sir W. Jones. My lords, we do not object against it; but, my lords, I think it is out of time to desire it. What was sworn, and is entered in your lordships Journal, was sworn above two years since. My lord, or any man else, might repair to them; they are matters of record, and for aught we know were never denied to any, especially if they desired it in the House; but after two years time, and after three weeks time given to prepare for this trial, when my lord could not but know what witnesses would be examined before your lordships; for him to come now and desire such and such depositions may be produced, which

if by law he might be allowed to do, he might have done before, is to no other purpose, under favour, but to gain time, and cause our evidence to be forgotten; and therefore we most humbly pray it may not be admitted: My lords, I think it is an unusual thing. My lords the judges, are near your lordships, I suppose they will inform your lordships. If a man be tried at the assizes, for him to desire a copy of the informations remaining in court, by which he may except against the witnesses, is what the court does not use to grant. But if your lordships proceedings vary from the common proceedings of other courts, then I resort to what I said before, Whether your lordships will think this a proper time, when he might have had it in the parliament that was first dissolved, and then in the parliament that was last dissolved. Now to desire those copies at this time, is to put off the cause for that which perhaps he cannot be furnished with in a day or two.

Sir F. Win. I would add but one word, if your lordship please to give me leave. My lords, you have the learned Judges near you, who will inform you, whether ever, when a man was accused of a capital offence, and the Evidence against him had been fully heard by the court and by himself, he was admitted to require from the prosecutors the copies of examinations formerly taken before other persons. Does my lord intend to have time to peruse those examinations, and to have the copies of them, that he may consult in private with his counsel to find out exceptions, and with his witnesses to make them good? My lords, I must say, that in my short experience (and I have attended a considerable time upon the greatest court for trial of offenders), I never heard such a thing asked by a prisoner, either at the bar of the King's-bench, or at the assizes. I speak with all the tenderness imaginable, because we are in a matter of blood, and God forbid but the lord at the bar should have true and equal justice done him! but if I take my lord right, this seems but an artifice to delay the trial, of which it is our duty to be very cautious. Indeed I have seen the judges, upon trial of a criminal, call for the Depositions or Informations from the clerk, or the justice of the peace who took them, and caused them to be read; but for a prisoner to call for examinations at the bar from the prosecutors, *et ex debita justitia*, to demand them, is a thing, which, as it never has been, so I think will not be admitted at this time, especially when we are now almost at the end of the cause. And with all modesty and submission to your lordships, I look upon it as a very strange and unreasonable demand.

L. H. S. My lord Stafford, what is the reason your lordship had not all this while copies of the Journal, which is that you now ask?

L. Staff. I shall not undertake that I am able to give your lordships a reason for it, because I think, wherein I have been mistaken as to point of time, your lordships will not tie me

up to that. But this gentleman that spoke last is not acquainted with me, and does not know me; for I have no desire to go back, or to put off this trial: But if it cannot be done to day, I am as guilty to-morrow as I am to day; and I desire no more than what he says hath been done in the like cases. I do desire, my lord, the Informations and Depositions of Dugdale, Oates and Turberville may be produced and read, and I will make observations upon them in my defence. I desire those affidavits may be brought.

L. H. S. Affidavits taken when and where?

L. Staff. Of Dr. Oates, that was read in your lordships house; I heard it.

L. H. S. Let us understand your lordship's demands, that when my lords are withdrawn, I may know what questions to put to them, and acquaint them with your desires: The one is the Journal of the Lords House, which is always before their lordships, and you might have had copies long since. The next thing you ask is an affidavit of Dugdale; if this affidavit is entered into the Journal, that supplies your demands; if it be not entered there, where shall we find it?

L. Staff. I do not know.

L. H. S. Does your lordship think all this matter must stay till we can find a loose affidavit, that we know not where it is filed?

L. Staff. I know it was before the council, and I believe my accusers have it; I desire the gentlemen of the House of Commons may produce it.

Sir J. Trevor. I have seen none, nor have none.

L. Staff. The one was taken the 24th of December this time two year, and the other the 29th.

L. H. S. My lord, Will your lordship give me leave to tell you, you ought to be provided with some particular exception; and not to make your demand in general. If your lordship will say, Dugdale did swear such and such things, which are contrary to what he now affirms, we know what to make of it; but to hunt after an affidavit that we know not where to find, to pick up something out of it, that I do not understand.

L. Staff. I appeal to my lord Essex, and my lord Bridgewater, whether they did not examine me the first time upon one or two affidavits of Dugdale.

L. H. S. Suppose it be not to be found, my lord?

L. Staff. Then I must have patience, and submit.

L. H. S. Can you tell wherein he swore quite blank contrary to what he swears now?

L. Staff. My lord, I conceive it was never denied before; but your lordships may do what you please.

L. H. S. Well, my lord, let us go on to the next. The affidavits of Dugdale, if they be entered on the Journal, may be ready; if not, then I shall acquaint their lordships, and they will direct what is fit in the case.

L. Staff. Then there is the affidavit of Oates before my lord chief justice, upon which I was committed; the next day, which was Friday, it was read in your lordships house.

L. H. S. I believe that it is entered upon the Journal, and so will be ready to be used.

L. Staff. I do hope to make it evidently appear thereby, that he is forsworn. I desire two affidavits more, that were taken before the justices of the peace of Middlesex, who examined Mr. Turberville twice.

L. H. S. What justices of the peace?

L. Staff. Mr. Warcup, sir William Pooltney, and sir Thomas Stringer. I desire I may not be misunderstood; I do not desire to have them to instruct my counsel, or advise with them upon them, but I cannot make my defence without them.

L. H. S. Those are voluntary extrajudicial affidavits, that no body is bound to keep.

L. Staff. They were spoken of in the votes of the House of Commons.

L. H. S. What say you, gentlemen, to it?

Sir F. Win. My lords, because my lord at the bar is pleased to insinuate, as if we knew where those affidavits are which he seems to desire, and because your lordship was pleased to say, that the Commons in parliament are the grand-jury of the kingdom, I desire to say one thing, That certainly it will not be required from us to produce and publish the several facts and circumstances that induced us to impeach him, if it shall be demanded by the prisoner at the bar.

L. H. S. I wish you would answer the question, and not argue upon it whether those affidavits of Turberville may not be produced; for it is my lord's exception against your witness, that he swears several ways; and by those affidavits of Turberville, he intends to disprove him in what he hath said to-day.

Sir F. Win. My lords, The House of Commons never administer an oath; and therefore it is not to be said to us, but my lord Stafford must go to the particular offices where they are to be found.

L. H. S. I do not ask you where my lord should find them, but whether if they can be found, you can object any thing why they should not be produced and read?

Serj. Mayn. When they are produced, we will give answer.

L. Staff. My lords, I am informed this is the substance of the affidavit, That Turberville did swear before two justices of peace, whether they be of the House of Commons, or no, I cannot tell, That he spake with me at Doway, and in Paris, in the years 1673 and 1676, and now he says 1672 and 1675; I am informed, my Lords: and I appeal to the House of Commons, they are all persons of honour and worth, (if my information be mistaken, I beg their pardon and yours for it) whether he did not mend it after he had sworn it.

L. H. S. Are these all you do demand?

L. Staff. Yes, my lords. Whether this was true or no, I do not know; it is what I have been

told; I appeal to the House of Commons, (who are all worthy persons, I do not believe I have an enemy among them,) they know whether I speak true or no.

L. H. S. When will your lordship be ready to make your defence?

L. Staff. As soon as ever I have them, I will not stay a minute, a moment, an instant; I desire not to shew my counsel, nor any one, for my trial is a thing that I have long desired; therefore I would not be mistaken, as if I would put off the cause. I am innocent, and shall be so while I live, and hope I shall make it appear so. I beg, if this be a matter of law, whether I may have them or not, that my counsel be heard to it.

L. H. S. This is a matter of fact.

L. Staff. I insist upon it as things without which I cannot make my defence: I am innocent, and I suppose not one of the House of Commons, nor one of your lordships, will debar me of that by which I may make my innocence appear.

L. H. S. You cannot know my Lords pleasure till they are withdrawn.

Sir W. Jones. Before your lordships withdraw, I hope you will please to hear us a few words, which we think may be for the service of this court. My lords, what evidence is before your lordships, it is in your lordships pleasure what of that you shall please to communicate to my lord Stafford; but for this evidence he speaks of, as remaining in our hands, and which he takes upon himself to appeal to us for, admits of another consideration. My lords, if we were conscious of any thing in these Affidavits that were for my lord's advantage, and knew where they were, we would readily produce them; but for myself, I must answer, and I think my companions will say so too, that we do not know where these affidavits are, nor of any variation in those affidavits from what is now sworn; but whatever they were, they were taken for the information of the House of Commons, who are the prosecutors in this cause, and who are no judges. Now, if my lord will bring any witness that will say this witness of ours did before a justice of peace depose so and so, and says the contrary now, there might be then just reasons to look after these affidavits, and to have them produced; but upon a bare imagination that there is a variance, where in truth there is none, and the truth may otherwise be known; to desire that these affidavits that never were before you should be produced, whether such a suggestion is to be admitted, I humbly submit to your lordships consideration.

L. Staff. My lords, if these gentlemen that are the managers for the House of Commons will aver to your lordships, that there is no variation in them, I will submit to them, and be quiet; if they will say it was not debated in the House, whether he should amend or no.

L. H. S. Look you, he puts it upon you so far, gentlemen, that if you will take it upon you to aver that there is no variation between

those affidavits upon which you grounded your Impeachment, and the evidence you have given upon the trial of your impeachment, he will not give you the trouble.

L. Staff. I beseech you, let me say one word: My lords, I have been thus long a prisoner; I was as far from being proceeded against now, as any of the rest of the lords in the Tower, till Turberville came in with his discovery; and I believe I am now called the sooner (which I am glad of, and I gave the gentlemen thanks for it) upon the affidavit of Turberville; I desire that affidavit. And though it be true, the House of Commons give no oath, yet they appointed two members of the House, that were justices of the peace of Middlesex, to take it upon oath, and he desired the next day to amend it; and I put myself upon them, whether this be not true.

L. H. S. What say you, Sir, to it?

Sir W. Jones. My lord, I cannot answer, because I do not hear.

L. Staff. My lords, I say this, I do observe that Mr. Turberville (whose face I never saw in my life that I know of, till to-day, nor never spoke a word to him, and I shall prove that no servant that ever I had see him) did depose (for the purpose) to-day, that he was in the years 1673 and 1676, in such and such places, and that he did speak with me at Doway and Paris; and to-morrow recollecting his Notes, he found he was mistaken in his affidavit that he had made before, and desired to mend it, and brought it to the years 1672 and 1675: There was some debate in the House about it, whether they should permit him to mend it: I appeal to all the gentlemen whether it were not so.

L. H. S. Your labour is to have two affidavits; that you do presume will do your business in order to the finding out a variety of time of his being at Doway or at Paris: That which does press your lordship we know in Turberville's evidence is, That at Paris, in the room below your lodging, you encouraged him to kill the king, and you were to have met him at Diep to know his mind, but you came not, and he went away; if you have it in the affidavit quite contrary to this, you say somewhat.

L. Staff. My lords, I beseech you, it presses me and every man in England, not to be run down by a fellow that forswears himself; for him to swear one thing to-day, and another thing to-morrow, is perjury.

L. H. S. What say you to it, gentlemen?

Sir W. Jones. What was done in the House of Commons, it does not become any of us that are members to disclose: but I have heard, and will admit it, that in the Depositions the witness made before a justice of the peace, there was a year put down, which he going home, and upon sight of letters and papers finding it to be mistaken, he comes the next day, and desires to alter it: If this be for my lord's service, we shall grant it.

L. H. S. What say you, my lord, now?

L. Staff. I do say; my lord, I am informed by what I have heard cursorily; (for I have not seen one of the House of Commons before the day of my trial) that though in his second Deposition he named the years 1672 and 1675, yet I can prove him perjured as to what he hath sworn here to day.

L. H. S. Since it is insisted upon; gentlemen, that there is a variety in the last deposition from what he swore at first, what can you say why he should not have the avail of his Exception?

Sir W. Jones. My lords, whether your lordships will think fit to consider by what ways and means the House of Commons informed themselves in order to Impeachments, I submit to you; and for those things that still remain in the hands of the Commons, I suppose you will be pleased to consider how you can send for them to inform you: We would not be mistaken in the matter; let not any one that hears us think that we are conscious there is the least variation; nay, we are confident, if the thing were produced, it would turn to my lord's prejudice; but what is done in this case may be a precedent for the future, and therefore we cannot, without resorting to the House, consent to deliver any thing the House took for their information. Therefore if your lordships stand upon it, and incline to have it done, we must resort to the House to ask their leave, whether we shall do it or no.

L. H. S. I cannot tell what my lords will incline to do; but I desire, when you are gone back, you will consider how far it will make the matter easy to my lord.

Sir Wm. Jones. My lords, we can give no answer to that till we have attended our House.

Ser. Maynard. I desire your lordships to consider what a piece of cunning he hath put upon both Houses, to pass by his vilifying our witnesses, which I may say was not comely. But if he makes any question, it must be put to the Houses upon supposition to be a question, and so he would bring things to this issue to put off the cause for to day. He ought to put that which might probably be something of a question. Let him instance in particulars, and make out his evidence, not feign things to put off the cause; for aught I see it is to no other end, and it is a jesuitical trick, I think.

L. Staff. I feign nothing; I have been told this that I speak here, and I desire it may be proved.

L. H. S. If you are bound up so that you cannot consent, I cannot help it.

Serj. Maynard. Let him put the fact, my lords, and not suppose and imagine things, and then raise questions.

L. H. S. It is usual in these cases for the gentlemen of the house of Commons to stay till the lords are withdrawn, and expect their lordships resolution; perhaps they may so order it that you need not go back.

Sir W. Jones. I desire before your lordships withdraw, that it may be taken notice of by

your lordships, that for the variation of the year, we do admit it. My lord is not pleased to mention any other particular matter of the affidavit, but only says in general, that it is contrary to what he says to day: If my lord would tell us wherein, perhaps we should admit it, or answer it, or take it into further consideration. But to make so general an allegation, and give your lordships no particular account, we submit whether such a suggestion ought to be regarded.

L. H. S. Is there any further variation; besides the variation of the year?

L. Staff. I cannot say there is, my lord, I do not know it; but I do really believe in my conscience there is, from what I have heard; but however, I insist upon it, and demand your judgment.

Sir Fr. Win. My lords, I humbly desire one word as to the objection that hath been made, that he hath prayed your lordships to grant him the sight of such and such papers. The nature of this cause, my lords, we know is such, that there was never the like number of papers known, as to the general plot; and my lord that is the prisoner at the bar, may as well demand to-morrow such a particular paper, and the next day another, that he hath heard of in the general plot; and where will the end of this be? So that if the thing be granted upon the variation of the time that it was immediately rectified, and he cannot produce any grounds that may satisfy your lordships why he should have that paper, you may as well suffer him to demand any other paper after, and so never end the cause.

L. H. S. Your lordship hath been told, and you shall find it, that you shall have as fair and equal an hearing as is possible, and nothing shall be denied you that is just and reasonable to save your life, or make your defence. But pray, my lord, for so much as is upon the Journal, which you may resort unto, you may easily know what answer my lords will give to that; but for this other thing, if it be only the variety you alledge of the time and the year, and you do desire it to look for other exceptions, and you pray the help of the Lords to see such a paper, that you may make enquiry after other varieties, do you think they are to help you to find out exceptions to the witnesses?

L. Staff. I do not desire their lordships to help me to find out Exceptions; but I have told your lordships of one Exception to the Affidavit, which these gentlemen acknowledge to be true; and the other Affidavit is, that he swears I spoke to him at Doway in the year 1672 or 1673, which I can disprove; and then I say, he swearing several things false he is no credible witness.

L. H. S. It is admitted to your lordship that he did mistake the time.

L. Staff. It is admitted that he said he spoke to me at Doway.

L. H. S. How very easy a matter were it to expedite this process, by allowing the prisoner his demand in this particular!

Sir W. Jones. I never saw it, and a great many of the managers say they never saw it.

L. Staff. These gentlemen say, I did it to put off the cause. I am far from it; for though I am in a condition very unfit to manage my defence, faint and weak with speaking so long and hardly able to speak any more, yet I desire to finish this night; and if I see it now, it will be enough, I shall not desire to have a copy to advise with my counsel or any body else.

L. H. S. Pray, gentlemen of the House of Commons, will you observe, my lord, as weary as he is, would make an end of the matter presently, if you would but send for the Affidavit.

Mr. Foley. My lords, it is not in our hands here; if the House of Commons will order it, it may be done; we cannot order it ourselves.

Mr. Poole. My lords, this is a paper that does properly belong to the House; and I do think that none of us here that are managers for this Trial, will undertake it shall be delivered, without resorting to the House for their opinion: for though I do verily believe, and am fully persuaded, that what this noble lord at the bar does object, will not appear to be so; for I think there is not any thing of my lord Stafford's speaking with this witness at Doway mentioned therein; yet how far the precedents of this may reach in other case, I think is worthy the consideration of the House. And we cannot presume to offer any thing in it to your lordships, until you be pleased to give us leave to go and resort thither.

Then the Lords withdrew, and after an hour and an half's space returned, and Proclamation was made for silence.

L. H. S. My lord viscount Stafford, my Lords have considered of the demands you made, and my Lords, upon the debate of the reasons of your demands, are come to this Resolution: your lordship did demand in the first place, that you might have a sight of the Journal, and have the Papers lodged in the House of Peers: my Lords take notice that this demand which your lordship now makes, is a demand that was granted you long ago, about two years since; you have an Order entered upon the Books, that your lordship should have copies of every thing in that House; and if your lordship have not taken out copies, and if any thing is missing to your lordship that is yet there extant, it is your lordships fault. However, my lords will command their Journals to be brought hither, that your lordship may make that use of them that may be of most profit to you. For the other demand touching the Affidavit supposed to be taken from Turberville by the justices of the peace, that my lords, upon consideration had, do find that there is no obligation at all upon them as a court, to concern themselves in that matter. And therefore my lords have made no Order in that point, but your lordship must come provided as well as you can, and the court can do no more to help you in it. For the rest, my Lords did take notice that your

lordship said before they were withdrawn, that you found yourself very faint and weary, and that you were much spent in discourse and tired with what already you have done. My Lords are extremely willing to give your lordship all the favour and accommodation possible, for the recollecting yourself; therefore my lords will not now put you upon it, to go on to make your Defence, but will give you time till to-morrow.

L. Staff. I humbly give your lordships thanks for your kindness and favour to me; but here I profess, and call Almighty God to witness, rather than I would have it thought I am willing to put it off, I would have sunk down dead at the bar. But, my lords, there was another demand that I made: Your lordships say, I shall have copies of all the Journals, and that you cannot help me to the Affidavit of Turberville. I submit to it without saying one word more: But I desire that I may have brought hither to-morrow the Journals, and other Papers in the Lords house; but I desire also the two Affidavits of Dugdale, taken the one on the 24th, the other the 29th of December following, which Depositions were taken before Mr. Lane and Mr. Vernon, in Stafford town, when Dugdale was in prison.

L. H. S. Look you, my lord, this is all under the same rule: What evidence soever there is before the Court of Peers, that you shall have; whatsoever evidence is not in that court, you ought to come provided of: The Court is not to stay, nor to help you to evidence.

L. Staff. My lord, I beg your pardon, Dugdale made an Affidavit then, and says the clean contrary now; I desire nothing but justice, and I am sure I shall have all justice from your lordships.

L. H. S. Produce it; alledge what you will for yourself, it shall be heard.

L. Staff. How then shall I be able to make my Defence if I have not those Papers, which I humbly conceive by the law ought to be brought? These gentlemen of the House of Commons say, that I could not have Turberville's Affidavit, because it was in the House, and they could not give it without consent of the House; but this was examined before a justice of peace, and returned to the council: Sure I shall have that. I was examined by my lord of Essex, and my lord of Bridgewater, upon that Affidavit twice, I think, therefore, that is material and necessary; and I know your lordships would not have me come to defend myself without weapons.

L. H. S. My lord Stafford, I do beseech your lordship to be a little better informed in your own business. You have leave to make use of the Journal, and all papers that are entered there; the clerks say, Dugdale's Oath is entered there.

L. Staff. Is the 24th of December there?

Clerk. It is there.

L. H. S. Pray, my lord, do not put the Court upon interrogatories, but come provided as well as you can.

L. Staff. If it be entered on the Journal-Book, I desire not the original, I am very well satisfied.

L. H. S. Will you be ready to go on to-morrow, my lord?

L. Staff. I will with all my heart.

L. H. S. It is too late, Gentlemen, to go on to-night; we must adjourn till to-morrow.

L. Staff. My lords, I had so much to write last night, that I had very little sleep; I desire I may not come till 10.

L. H. S. My lord, I am not able to hear you; I take as much pains to come near you as I can.

L. Staff. I had a great deal to write last night, I say, and I want some sleep; I desire I may not come till 10.

L. H. S. Will you be ready by 10 o'clock to-morrow.

L. Staff. I will be ready by ten.

L. H. S. I will move my lords when they are withdrawn, to adjourn till 10 to-morrow. But, my lord Stafford, I do not know how your lordship is provided, or how you look after your own business. If you have not had copies of the Journal all this while, it is you are in the fault. A great deal of it is in print, you may send your Solicitor to the clerk of the parliament, and take copies of what you have need of. I give you notice of it; that if you come unprovided, you may know it is your own fault.

L. Staff. I do acknowledge I have copies of the Journal-Book, I think of all; but I do not find any thing of Dugdale's second Deposition there.

L. H. S. Here is that of the 24th of December, that you ask after; send your Solicitor, and then you shall have a copy out of the Journal of it.

L. Staff. I assure your lordship I will be ready to-morrow, if I can get those copies.

L. H. S. My lords will give you as much ease, and all the accommodations that are fit.

L. Staff. Then to-morrow I will be ready by 10 o'clock if your lordships please; only I would desire your lordships to take notice, that these gentlemen of the House of Commons do acknowledge that Turberville swore one day to one year, and the next day to another.

L. H. S. My lord Stafford, you say you can be ready to-morrow at 10 o'clock; are you sure you can be ready then?

L. Staff. I say, my lords, this, I shall not be so ready as I shall be next day; but I assure your lordships, I will rather sink down in the place where I am, if you think fit, than put off the trial.

L. H. S. Look you, gentlemen of the House of Commons, in a case of this consequence, and of this vital importance to a man as this is, where is the inconvenience if there should be a day's respite, and the Court should adjourn till Friday, if my Lords be moved in it? I make no direction, but what inconvenience will be in it? Will it not be every way as well?

Sir W. Jones. My lords, your lordships do not expect from us to give our consent to put off the trial.

L. H. S. I ask only, what inconvenience it is?

Sir W. Jones. Your lordships are the judges, and will do as you find it reasonable; but this I say, it is very unusual, and scarce to be preceded, that when the prosecutors have given an evidence, the prisoner should have time, a further considerable time, to give his Answer to it. The prisoner knows before-hand the general scope and drift of the evidence; therefore for him to have time till to-morrow, is a favour; but to have more than that, even a whole day to intervene, is very unusual.

L. H. S. If that be all, and the matter depend upon what is usual, I do venture with my lords leave to inform you, that my lord of Strafford had two days time after the prosecution, to give his answer to what was said against him.

Sir W. Jones. That was an evidence of 28 Articles, this but upon two heads; and that was after a long examination of many days.

L. Staff. My lords, I had prepared myself for my trial as well as I could, and written down a few things that I intended to say; and I profess before God, as I am a man, and as I am a Christian, of all I intended to say: I have in a manner made use of very few words, but as to what I had to say upon evidence, I was forced to lay all aside, because I wanted these papers. I have not eaten to-day, and being forced to lay aside all that I had written, I shall need a whole day to write; however, I submit myself to your lordships in that matter.

L. H. S. My lord, if it will be equal to your lordship, and your lordship will be as ready to-morrow as another day, this Court will be more ready.

L. Staff. I assure your lordships, if your lordships do give me another day, I will not debate with my counsel any one thing upon the papers I have asked.

L. H. S. Pray, my lord, will you be pleased to make your demand to my lords, who are your judges, by what time you will be content to be foreclosed.

L. Staff. My lords, if you will give me till Friday, I shall be ready to give my evidence, and I will bring witnesses sufficient, I hope, to prove my innocency.

Sir W. Jones. My lords, we do not presume at all to offer our consent to what time the Court shall be adjourned—

L. H. S. No, we do not ask your consent.

Sir W. Jones. And I hope your lordships will not ask the prisoner's consent, nor do it by his direction.

L. H. S. 'De morte hominis non est cunctatio longa.'

Sir W. Jones. But we must desire your lordships, as we are entrusted by the House of Commons to manage this Trial, to take notice, that as we do not expect your lordships should take the measures from our desires, much less do we expect you should do it at the only instance of the prisoner. It is a great advantage to this lord to chuse his own time, when he will

please to answer our Evidence. We do know very well, that in this case there have been attempts to suborn witnesses, and that we shall prove in due time, and attempts to destroy witnesses too; so that there hath been too much time lost already, and I think to-morrow is a very convenient time for him to make his answer. And I must observe to your lordships, that the prisoner hath gained his end of not making his Answer this day, by raising an objection, which in my thoughts carried no great weight in it; though when it was made, your lordships were pleased to adjourn upon it: But seeing he hath got his point of deferring the making answer till to-morrow, there can be no reason he should gain a further day, since the Depositions may be ready by to-morrow as well as by the next day. And therefore we desire your lordships will be pleased to go on in the trial to-morrow.

L. H. S. You shall know their lordships pleasure when they are withdrawn. Is it your lordships pleasure that we should adjourn?

Lords. Ay, ay.

L. H. S. This House is adjourned into the Parliament-Chamber.

So the Lords withdrew in their order, and the Commons went back to their House, and Mr. Speaker resumed the chair.

A Message was sent from the Lords by sir Timothy Baldwyn, and sir Samuel Clark.

“Mr. Speaker, the Lords have sent us to acquaint this House, that they have ordered the prisoner, William viscount Stafford to be brought to the bar in Westminster-hall, to-morrow morning at ten o'clock.”

And then the Commons adjourned to eight o'clock next morning.

THE THIRD DAY.

Thursday, December 2, 1680.

At the hour of ten in the morning, the Lords adjourned into Westminster-hall, and returned in their former order into the Court there erected; and Mr. Speaker having left the chair, the Commons were seated as before. The Court being sat, proclamation for silence was made, and the Lieutenant of the Tower commanded to bring his prisoner to the bar; which being done, the Lord High Steward spake to him as followeth:

L. H. S. My lord Stafford, this is the time appointed to hear what your lordship hath to say in your defence, and to call your witnesses.

Sir W. Jones. My lords, yesterday my lord viscount Stafford was pleased to make mention of an Affidavit of Mr. Turberville, taken before two justices of the peace, wherein he was pleased to say there was some amendment made; and so indeed we did then acknowledge there was. But he had a desire to see it, notwithstanding our acknowledgement, because he was informed that that which Turberville swore then, differed from what Turberville swore yes-

terday. My lords, at that time we had not the Affidavit; nor was it proper for us to produce it, for indeed it remained in the Justice of Peace's hands that took it: But now that his lordship may have full satisfaction, and not only his lordship, but also all that are present at this Trial, I do inform his lordship, that the Affidavit is in the hands of a member of the House of Commons, sir William Poultney by name; and if his lordship please, he may have it produced, and make what use he can of it.

L. H. S. It is extreme honourably and worthily done of the House of Commons; and my lord hath no manner of exception left him.

L. Staff. My Lords, if I shall have occasion to use it, I shall call for it; but I would first say something to your lordships: My lords, I first give your lordships thanks for granting me the liberty to come so late to-day; I have had a little sleep upon it. Your lordships heard yesterday, when you had Dr. Oates at the bar, the first thing that he said, as I remember, was to desire you would be pleased to leave him to his own method: I beg of your lordships the same favour, that I may begin with the one or the other witnesses, or with matter of law, as I please.

L. H. S. God forbid but you should take your own method in your defence.

L. Staff. In order to which, I desire first Mr. Turberville may come to the bar.

L. H. S. Do you call Turberville, my lord?

L. Staff. Yes, my lord, I do.

L. H. S. He is there, what say you to him.

L. Staff. My lords, I will ask him but one question, and I hope I shall have occasion to ask him no more: When was the last time that he spoke with me?

L. H. S. Mr. Turberville, I think I hear right, I do not know: My lord Stafford asks, when was the last time you spoke with his lordship?

Mr. Tur. It was in November, 1675.

L. Staff. I have very much to say against his evidence; but I hope your lordships will not think him any evidence at all against me, or any body else. But I desire your judgment, whether I be not within the compass of the time limited by the statute.

Serj. Mayn. Express yourself, my lord, for we do not understand you.

L. Staff. I cannot say more than I do: The time which the statute limits, is six months, but this is five years; I desire this statute may be read.

L. H. S. What statute, my lord?

L. Staff. The statute of the 13th of this king.

L. H. S. If your lordship pleases you shall have it read: But your lordship does not observe, you are prosecuted and impeached of High-Treason upon the statute of the 25th Edw. 3. not upon the statute of the 13th of this king, made for the safety of the king's person, which limits the prosecution of some offences to be within six months; but the prosecution for treason may be at any time.

L. Staff. Does your lordship say it may be at any time?

L. H. S. Yes, my lord.

L. Staff. This truly does very much surprise me, though I am wholly ignorant in matters of law. My lords, I have ever heard that no man can be prosecuted by that statute, but within so many days, in one part of it in thirty days, in another six months; and I desire your lordships that the statute may be read.

L. H. S. If your lordships please the statute shall be read; if your lordship desires the clause of the statute of the 13th of this king, which limits the prosecution to be within six months, that shall be read. But I conceive your lordship is not accused upon that statute.

L. Staff. I beseech your lordships I may know whether I am prosecuted upon the statute of the 13th of this king, or upon what other statute.

L. H. S. What say the worthy gentlemen of the House of Commons: Is my lord prosecuted upon the statute of the 13th of this king?

Serj. Maynard. Not at all, my lord; he is not prosecuted upon that statute, but upon the common law, and the 25th of Edw. 3. which was only declarative of the common law.

L. Staff. This is a point of law.

Sir W. Jones. What is the point of law?

L. Staff. Whether I can be prosecuted after so many days.

L. H. S. The law is very clear. If you were prosecuted upon the 13th of this king for any less offence than treason, you could not be prosecuted after six months; but if you be prosecuted for treason either upon the 25th of Edw. 3. or the 13th of Car. 2. there is no time limited, and God forbid there should.

L. Staff. I beseech your lordships judgment whether there be not a statute, I think it is in the reign of Edward 6. that sets the time, after which no man shall be prosecuted for any thing of treason. I desire a quarter of an hour's time to look into the statute.

L. H. S. What say you, gentlemen?

L. Staff. Pray my lord, let me read the statute of Edward 6.

Serj. Maynard. We know not of any such statute.

L. Staff. I will not say there is, but I will say I cannot read if there be not.

L. H. S. Pray, gentlemen of the House of Commons, my lord does suppose he has some kind of objection in law to make, which he cannot make out of himself; will it be amiss to let his counsel make and propose the question for him?

Sir W. Jones. My lords, we rather would have my lord propose the objection; for your lordships know till a matter of law is proposed, he cannot be admitted to have counsel. If he desires time to recollect himself about the objection, we can't oppose it. But we desire that he may propose the objection; and after, if it be any doubt in matter of law, your lordships will assign him counsel to be heard to speak to it.

Sir F. Win. This would be a way for a pri-

soner to have the advantage of counsel, when they ought not to be allowed it; for it is but to say, he hath some doubt which he cannot propose himself, and so let in his counsel to make objections for him. If any question of law do arise, and that question is stated, you will allow the prisoner counsel to argue it: But at this rate he may make the like pretences in every part of his defence, and so obtain that counsel shall manage his whole defence for him.

L. H. S. I suppose my lord does intend an objection as to the time of the prosecution, but he does not know how to make it. He supposes, he is prosecuted after the six months, which he thinks is the time limited for the prosecution. But I pray, my lord Stafford, will your lordship take time to recollect yourself, and make an objection fit for counsel to be heard upon, and you shall have it.

L. Staff. I beseech you I may have the statute-book with me, for I have none myself, my lord.

Sir W. Jones. With all our hearts, we do not oppose it.

Then my lord withdrew into the room provided for him, and within a quarter of an hour returned.

L. H. S. Say, my lord.

L. Staff. My lords, I do confess I have been very much mistaken ever since I was first committed to the Tower: For I did conceive that they would have proceeded, as I thought I was impeached, upon the statute of the 13th of this king. I humbly desire your lordships judgment, whether I ought or no to be prosecuted upon that statute?

L. H. S. The gentlemen have told you already: They prosecuted you upon the statute of 25 Ed. 3. and upon the common law.

L. Staff. And they lay aside that statute.

L. H. S. What statute?

L. Staff. The 13th of this king.

L. H. S. What say you, gentlemen, once more?

Sir Fr. Wing. My lords, we have declared already to his lordship; and if my lord had looked well upon the Articles of Impeachment, he could not have put that question, but would have found himself impeached for treason at the common law, declared by the 25th Edw. 3.

Ld. Staff. So then they lay that aside of the 13th of this king?

Serjeant Maynard. We do not mention any statute, but we mention the crime; and that crime is against the common law, declared by the statute, to wit, the attempting the king's death, and the subversion of the government.

Ld. Staff. My lords, there is no doubt but the attempting the king's death is a great and heinous crime; but, my lords, I do not find that in the Impeachment, there is any overt-act at all. And whether I shall answer to a treason not proved by any overt-act sworn by two witnesses, I submit to your lordships. But, my lord, because your lordships and the House

of Commons may not think that I propose these things out of a desire of delay: if your lordships please, it may be saved to me, with all other points of law; I will go on to my proofs.

L. H. S. Yes, all these things shall be saved to you: pray let us hear your evidence.

Ld. Staff. Since your lordships have granted me that, be pleased to give me leave to go to my evidence; and I begin with Stephen Dugdale.

L. H. S. Set up Dugdale.

Ld. Staff. Will your lordships please I may have pen, ink, and paper?

L. H. S. By all means, my lord. [Which was given him.]

Ld. Staff. May it please your lordships, Stephen Dugdale said, if I understand him right (and I ask him again), that he knew something of the plot 15 or 16 years ago.

L. H. S. What say you, Mr. Dugdale, you hear the question? Did not you say you knew of the plot 15 or 16 years ago?

Dugdale. I did say it, and did explain my meaning in it. I did say there was among us such a preparation to be made against the king died, of arms and money, that neither should be wanting.

Ld. Staff. I beseech your lordship to ask what proportion of arms was to be provided.

L. H. S. What proportion of arms was to be provided?

Dugdale. I never heard it nominated how many absolutely. I have heard of some numbers. I heard of late of 30,000 that were to be raised beyond sea: What the whole number in England was, I have forgot; but I think I have heard Mr. Gavan, and some of the priests say, That if there was occasion they should have at least 200,000 to assist them, that was of men; and I suppose they had arms as well as men.

Ld. Staff. My lords, if this were true which he says Mr. Gavan said, that they were 200,000, I desire to know what men he meant, what religion they must be of.

L. H. S. What religion were they of that were to come in and help?

Dugdale. He did not name them at that time; but I understood them, and so I apprehend the company would, that they were Roman catholics.

Ld. Staff. It is a strange thing that there should be 200,000 catholics raised, when there are not 20,000 in England that can bear arms.

L. H. S. Good my lord, they might come from beyond sea, and so they might be so many Roman Catholics, though there were not so many in England.

Serjeant Mayn. And he says not they were Roman Catholics, but he heard so.

Mr. Treby. There might be so many Roman Catholics, and such as should be with them.

Ld. Staff. Did he hear 15 or 16 years ago that I was to be among them?

L. H. S. Answer that question: Did you

VOL. VII.

hear then that my lord Stafford was to be one among them?

Dugdale. I cannot remember that I did, my lord.

Ld. Staff. Then, my Lords, I make this use of it: He tells you of a plot 16 years ago, that 200,000 men in arms were ready against the king's death——

Dugdale. I did not say so, my lords, I desire understood aright——

Ld. Staff. You say you heard so.

Dugdale. I speak as to the number of men, what I heard at the consults and meetings within these two years.

Ld. Staff. But I speak of 16 years ago, what number of men was there to be raised?

Dugdale. My lords, it was a general word that was amongst us, That we must be provided against that time, against the death of the king, but no number at all.

L. Staff. This my Lords, under the favour, I conceive does not concern me. He tells you there was such a thing; it might be so, or it might not be so; I am not concerned in it, then it is out of doors as to what concerns me, I conceive; if the gentlemen conceive otherwise, they will say so. Then my lords, the next thing is, How long ago it is since I first spake to him about this Plot? And I beseech your lordship he may mention time and place.

L. H. S. You hear the question, Mr. Dugdale.

Dugd. The first time, to my best remembrance——

L. Staff. I beseech you, my lords, let us have no remembrance, but let him swear positively.

L. H. S. There is no mortal man can swear otherwise than according to his remembrance.

L. Staff. When a man's life and honour, and all he hath is at stake, and indeed in consequence, every man in England is concerned, if they swear not positively, but still say, As I remember; who can make a defence?

L. H. S. Mr. Dugdale, Go on, and say, as near as you can, and be as particular as you can upon your oath.

Dugd. That which I can positively affirm, is, It was about August or September 1678.

L. Staff. He said, yesterday it was in the latter end of August, or the beginning of September, which are two months. I beseech you what does he mean by the latter end of August? How long before the end of August?

L. H. S. How long was it before the last day in August?

Dugd. My lords, I will not be positive; but it was either in one month or the other: I did not keep a Diary, or else I would give your lordships satisfaction.

L. Staff. I beseech your lordships he may positively say, whether in August, or not in August; or whether in September, or not in September.

Dugd. I dare not venture to swear that, I dare not do it.

4 T

L. Staff. Then saving my exceptions to the uncertainty of that afterwards, I would ask him, what day was it in September that I spoke to him.

Dugd. I remember one was either the 20th or 21st of September, 1678.

L. Staff. My lords, he says the 20th or 21st; does he say that was the first time he spoke with me?

Sir J. Trevor. No, no.

L. Staff. I beseech you, my lords, they may not answer the questions, but the witnesses; they cry, no, no.

L. H. S. My lord, you shall certainly have an answer to all the questions you will ask.

L. Staff. But when I ask, they answer for them; I would know whether that is the course or no?

L. H. S. Do not disquiet yourself for any thing that is said about you; you shall have a fair hearing.

L. Staff. But, my lords, I cannot but be disquieted when I hear these learned gentlemen make answers to my questions for the witnesses.

L. H. S. Mr. Dugdale, was the 20th or the 21st of September, you speak of, the first time that you spoke to my lord Stafford.

Dugd. No, my lords, it was not.

L. Staff. Pray, my lords, what day was it then I spoke first to him?

L. H. S. What was the day you first spoke to my lord?

Dugd. Truly, my lords, I cannot remember so well as to tell you.

L. H. S. Do you remember when my lord came to Tixall?

Dugd. I remember one Sunday in particular; but I cannot tell what day of the month it was.

L. H. S. Do you remember my lord Stafford at Tixall, in company with my lord Aston and Father Evers?—*Dugd.* Yes, I do.

L. H. S. Do you remember that any discourse passed between them?

Dugd. Yes, I do.

L. H. S. Was that before or after the 21st of September.

Dugd. Both before and after.

L. Staff. My lords, He says there was a consult at Tixall, where such and such were present, and the king's death determined; I ask when was that?

Dugd. That was in September, I cannot say positively the day; but in September, or the latter end of August.

L. Staff. My lords, I must acquiesce and submit to your lordships to do what you please; but if he does not name times nor places, how can I make my defence? I desire he may say positively within five days of the one or of the other; and, my lords, I will put it upon that, if he say five days before the end of August, or five days in the beginning of September, which one would think is space enough, that is ten days time.

L. H. S. My lords, do observe how far Mr. Dugdale goes, and that he is no further positive than he does express himself.

L. Staff. I beseech your lordships, I press this, because, it concerns me very much, that he may be positive within five days or under.

L. H. S. Can you remember whether it were within five days of the one or of the other?

Dugd. Truly, my lords, I cannot be positive; if I had not made a particular remark upon that of the 20th or the 21st, I could not have remembered that; for I did not then intend to reveal the plot, or else I could have given you satisfaction in that.

L. H. S. My lord, your lordship hath an answer to it; he cannot speak more positively to it than he does.

L. Staff. I beseech you, then, how is it possible I can make my defence?

Dugd. My lords, I kept no Journal; if I had, I would be more positive.

L. Staff. He says it was the latter end of August, or the beginning of September; I desire he will say, whether it was the last week in August, or the first week in September?

L. H. S. He answers he cannot tell; your lordship must make what advantage you can of that answer.

L. Staff. I can make no advantage of it, unless he does speak positively to the time. My lords, I beseech you I may know what is the end of August and the beginning of September?

L. H. S. My lord, I hear you not.

L. Staff. If a man says the beginning of June I was at such a place, how many days is the beginning, and how many days the end of a month? How much time will your lordships understand the meaning of that to be? I am concerned extremely in the point of time; for it is that which the whole business depends upon, I mean as to this man.

L. H. S. My lord, go on with your evidence; I know not how to give you an answer, what judgment my lords will make of it, or how much they will understand by it, till they are withdrawn: They observe how much your lordship insists upon it, and will hear what the worthy gentlemen of the House of Commons will answer to it.

L. Staff. My lords, my whole business with this fellow is concerned in a positive answer to this question; I give him, I think, reasonable time to confine himself to.

L. H. S. What say you to the 20th or 21st of September, my lord?

L. Staff. My lords, I shall give a clear answer to that anon; but I am extremely concerned in this, to know whether it was in August or September.

L. H. S. My lord, if your lordship be concerned never so much at that, the witness can swear no more than he can swear. He says about the latter end of August or the beginning of September; will your lordship stand still for that?

L. Staff. Well then, I will go on as well as I can: As for the matter of the 20th or 21st of September, I beseech your lordships I may ask Dugdale one question, Whether at the Trial of sir George Wakeman or the Five Jesuits, he

did not say the consult was in August; if he deny it, I shall prove it.

L. H. S. Mr. Dugdale, My lord asks, whether at the trial of Wakeman; or the Five Jesuits, you did not say it was in August?

Dugd. My lords, I did name there was a consult at Boscobel in August; but I do not remember that I did name my lord Stafford in any consult in August positively; but, as I say now, the latter end of August, or the beginning of September. But I did name that there was a consult at Boscobel in August 1678.

L. Staff. My lords, He did say I was at the consult in August.

Dugd. I did not say my lord Stafford was there, I do not charge him in it; and if any such thing was printed, I have wrong done me.

L. Staff. Then he says he had nothing to do with me till the latter end of August, or the beginning of September. My lords, I beseech your lordships to ask him, whether in sir George Wakeman's trial he did not say, he was to receive orders from me in June or July, when I came into the country.

L. H. S. Did not you say at sir George Wakeman's trial, that you were to receive orders from my lord Stafford in June or July, when he came into the country?

Dugd. My lord, I submit to your lordship, and the rest of my lords here, whether when that question was asked by my lord Stafford, I did not say, That the first time I entered into correspondency with the Consulters, they told me, my lord was to come down then, and I should receive orders from him. I had heard of my lord Stafford before, but not to enter into any consults with him, till he came down the latter end of that summer.

L. Staff. I beseech your lordships pardon me; I desire him to answer positively, whether at the trial of sir George Wakeman, he did not say he was to receive orders from me in June or July, when I came into the country.

L. H. S. Did you say so at sir George Wakeman's trial?

Dugd. I believe I did say so; for I had it from others, and not my lord Stafford himself.

L. Staff. My lords, in June or July I was not in the country.

L. H. S. He says you were to come down, that you did come down.

L. Staff. If you will let him do thus, there is no man safe; I shall begin the tragedy, and millions will follow. He swore at the trial of sir George Wakeman, or that of those other persons, That there was a consult at my lord Aston's at Tixall, where I was one, in August.

Dugd. My lords, I did not swear so; but in August or September, or one of them, as now I swear.

L. Staff. I shall prove it by the book, and witnesses that were there.

Dugd. Then they did me wrong by printing it; for I never said of your lordship otherwise than I do now.

L. Staff. I desire my witnesses may be called to prove it, for I conceive it is very material. My lords, does he deny it?

Dugd. I do say there was a consult at Tixall in August; but I did not charge your lordship positively to be there then, nor with any more than I do now.

L. Staff. I think you did, and I have witnesses to prove it. And it is impossible for any man living to defend himself, if persons shall swear as they suppose, think, or remember. I tell your lordships I was not there all the month of August.

L. H. S. Does your lordship intend to call any witnesses?

L. Staff. My Lords, I thought I had more witnesses than I have. But I have two here, if your lordships will hear them, that he did swear I was at Tixall in August.

L. H. S. Who are they?

L. Staff. My daughter Winchester, for one, and a lady that is my kinswoman for another.

L. H. S. Let them stand up, they are not to be sworn. You do not except against them, gentlemen?

Sir W. Jones. No, let him prove what he can.

L. Marchioness of Winchester. He did swear that he was to receive his orders from——

L. H. S. Madam, your ladyship is not upon your oath; but you are under all the obligations of truth and honour in the world.

L. March. Winch. My lords, by the grace of God, I will not speak an untrue word.

Sir W. Jones. We desire to know this lady's name.

L. Staff. It is my daughter Winchester.

L. March. Winch. This Stephen Dugdale did say at the trial of sir George Wakeman, That he was to receive orders from my lord in June or July, when he was to come down; and that my lord was at a consult at Tixall in August.

L. H. S. Did he say positively in August, or in August and September?

L. March. Winch. No, he did not name September.

Dugd. My lords, I might say my lord was to come down then; but not that ever I said he was there, but as now.

L. H. S. But she says you did not name September.

L. Staff. Here is another lady.

Sir W. Jones. Who is she, my lord?

L. Staff. Mrs. Howard, daughter to sir George Blount, and married to Mr. Howard, a kinsman of mine; she is now a widow.

Mrs. Howard. My lords, at the trial of sir George Wakeman, Dugdale was asked to be positive in the month my lord Stafford came down; and he said, he came down in June or July; but he said the consult was in August, wherein my lord Stafford was.

L. H. S. That lady likewise says the same, That you would not be positive as to June or July; but as to August, you were positive that my lord was there.

Dugd. No, my lords, I only said, In August there was a consult; and in June or July my lord was to come down.

Mrs. Howard. I do assure you we came to that trial on purpose to observe every word he said about my lord Stafford, and we have kept it in our memories ever since.

L. H. S. What do you say, Mr. Dugdale, to it?

Dugd. I suppose there was a great many more at that trial than those two worthy ladies; and I suppose some of them may remember I said no more than I do now. I said then, my lord was to come down at that time, and so I said several times, but not positively, that he was there till the end of August, or the beginning of September.

L. Staff. My lords, I do positively aver, here are two witnesses that say, he swore I was there at the consult in August. Now it concerns me to prove that I was not there in August, since he said absolutely I was there in August; and I assure you I can prove I was not there all the whole month. In the beginning of August I come from London, from my own house; on Tuesday or Wednesday the 6th of August, I went to my lord Bellasis's, and that night I went to George Porter's; the next night I went onwards towards Bath; when I was there I went over and staid with my noble lord the marquis of Worcester; there I staid two or three days, and I went thence to another place hard by there; and then I came back again to Bath, and went back again afterwards to my lord's house; and the 1st or 2nd of September, I went from my lord's house to London. Then if this be acknowledged I need say no more; if not, I will prove it by sufficient witnesses: so then I was not there the whole month of August; and the beginning of September he says he spoke with me. I was not there till the 12th of September. Now I beseech your lordships, how that could possibly be the beginning of September. I submit to you, Whether then he be a witness fit to be heard, that shall swear positively what hath no colour of truth in it, I also leave to you. And if they object I was not where I say I was in August, I will prove it. And for the 20th and 21st of September, I do own something of that, and I shall prove to your lordship what it was.

L. H. S. Call what witnesses you please, my lord.

L. Staff. My daughter proves when I went out of town.

L. March. Winch. My lords, it was on a Tuesday my father went to my lord Bellasis's, he dined there, and then went on to George Porter's.

L. Staff. That I was at Bath I shall call witnesses.

L. H. S. My lord, you should prove when you first came to Tixall, my lord Aston's.

L. Staff. Will that satisfy your lordship?

L. H. S. Me! It is not me you are to satisfy, but my Lords, and the gentlemen of the House of Commons.

L. Staff. Then I do own to your lordships, I came the first time the 12th of September to Tixall.

L. H. S. That was the first day you were there?

L. Staff. That year, my lord, it was.

Sir W. Jones. Prove it.

L. Staff. Does he deny that, my lords?

L. H. S. Do you deny that my lord came first to Tixall the 12th of September, or do you know he was there before?

Dugd. My lords, I have positively spoke to no day, but only to the 21st or 20th of Sept.

L. Staff. Where is my lord marquis of Worcester's servant?

L. H. S. My lord Stafford, it will be best for your lordship to produce all the witnesses you have, and not to leave any thing undone that you can prove.

L. Staff. But I beseech your lordships I may ask one question: If I shall name any of the House of Peers as my witnesses, does that exempt them from being judges?

L. H. S. No, my lord. If your lordship have any witnesses among any of my lords here, they may very well testify for you, and yet remain still in the capacities of your judges; for my lord of Strafford had a great many witnesses that were peers.

Sir J. Trevor. We do not oppose it, my lords.

L. H. S. My lord, call your witnesses.

L. Staff. There is no place appointed for them, and therefore I could not have them ready here; I have sent for them; I have a throng of them.

L. H. S. They will open the way, and we will stay for them.

L. Staff. My lords, I desire, that as yesterday, when the witnesses were sworn against me, mine did not hear what they said, so I desire when my witnesses come, theirs may not be present.

L. H. S. My lord, with your lordship's pardon, it was not well done that your witnesses were not there; but if witnesses be to confront one another, shall they not hear what one another say?

L. Staff. My lords, I am so clear in every thing, I will dispute no little matters.

Then my Lord's Witness stood up.

L. H. S. What is this man's name you call now, my lord?

L. Staff. Indeed, my lord, I don't know.

Witness. My name is Bonny, my lords.

L. H. S. Does your lordship call this man?

L. Staff. Yes, my lords.

L. H. S. You are not upon your oath, but you are to look that a strict account will be taken of what you say.

Mr. Foley. My lords, we desire to know where this witness lives?

Bonny. I live in Exeter-Street, by Exeter-Exchange.

L. Staff. I declare it I know him not, but I am told he can witness for me.

L. H. S. Your Christian name?

Bonny. Thomas.

L. H. S. What profession are you of?

Bonny. I live as clerk of the kitchen to my lord marquis of Worcester.

Mr. Foley. What religion are you of?

Bonny. A Protestant, one of the Church of England.

L. Staff. My lords, I humbly move your lordships, when I asked Mr. Smith the 1st day, where he was made a priest? The gentleman said, he was not bound to answer any thing against himself that might make him criminal. I desire that the question may not be put to my witnesses what religion they are of?

L. H. S. The gentlemen will not offer to ask any question that may make a man accuse himself; but my lord, a papist or not a papist is not so penal as a priest or no priest.

Mr. Foley. To acknowledge a man's self a papist, is not to make him a criminal.

L. H. S. What does your lordship call this witness for?

L. Staff. To prove when I was at my lord marquis of Worcester's?

L. H. S. What say you? when was my lord Stafford at my lord marquis of Worcester's?

Bonny. In August 1678.

L. H. S. Do you remember it perfectly?

Bonny. Very well.

L. H. S. What day of August?

Bonny. The 17th of August, which my lord marquis keeps as his wedding-day every year, and the gentlemen of the country are invited thither. My lord Stafford was then at Bath, and my lord marquis was pleased to send his coach for him, to be present there that day; there he staid that day and the next day, and then returned on Monday. And in the same month, the 31st of August, my lord came again from Bath to Badminton, my lord marquis of Worcester's, and upon the Monday after returned for London.

L. H. S. That was the beginning of September?

Bonny. Yes, the 2d he went to London.

L. H. S. Will you ask him, gentlemen, any questions?

Managers. No, my lords.

L. H. S. Call another witness then. (Who stood up.)

L. H. S. What is this man's name?

Witness. Thomas.

L. H. S. Thomas what?

Witness. Thomas White.

L. H. S. Where do you live?

White. I live with my lord marquis of Worcester at Badminton.

L. H. S. What do you say?

White. My lords—

Lord Marquis of Worcester. My lord Steward, I have only this to say, my lord Stafford desired that his witnesses might not be asked what religion they were of; but I desire all my servants may be asked, for I keep none but Protestants.

L. H. S. What religion are you of?

White. A Protestant.

L. Staff. My lords, I did not require it for them, I know my lord keeps none but Protestants; but I asked it for others of my witnesses, that may come, and be startled at it.

L. H. S. What say you, when was my lord Stafford at my lord marquis of Worcester's house?

White. The 17th of August 1678; I fetched him from Bath, being my lord's wedding-day.

L. H. S. You fetched him.

White. Yes, my lords.

L. H. S. What place do you serve my lord marquis in?

White. As coachman.

L. H. S. Was he there afterwards?

White. Yes, he was, but I cannot remember the day; only this being a remarkable day, I can remember it.

L. H. S. Did you carry my lord from thence towards London?

White. Yes, I did.

L. H. S. When was that?

White. The second of September, to the best of my remembrance.

L. H. S. Gentlemen, will you ask him any questions.

Managers. No.

L. Staff. I think this is so clear, I shall not need to trouble your lordships further with more witnesses.

L. H. S. Call whom you please, my lord, and as many as you think fit, they shall be heard.

L. Staff. One more then, my lords. (Who stood up.)

L. H. S. What is your name?

Witness. Richard Bevan.

L. H. S. Who do you live with?

Bevan. I am groom to my lord marquis of Worcester.

L. H. S. What religion are you of?

Bevan. A Protestant.

L. H. S. Do you remember when my lord Stafford was at the marquis of Worcester's house?

Bevan. Yes, I do.

L. H. S. What time was it?

Bevan. The 17th of August.

L. H. S. Do you remember any other day?

Bevan. No, my lord; but he was there that day.

L. H. S. Will you ask him any questions?

Managers. No, my lords.

L. Staff. My lords, if your lordships please, I desire my lord marquis of Worcester may tell your lordships whether his men have said true or no?

Marq. of Worcest. My lords, I do remember, that my lord Stafford was pleased to do me the honour to come upon my wedding-day from the Bath, and dine with me, as most persons of quality that are of my acquaintance, and happen to be at the Bath at that time, are pleased to do; and as most of the gentlemen of the country, within such a distance, do also. (And that day is the 17th of August). I think

he was there once or twice after, from the bath, but I cannot tell precisely the days; but that particular day I remember, because it was my wedding-day.

L. H. S. Can your lordship remember when my lord Stafford went to London?

Marq. of Worcest. Truly I cannot tell that, my lords.

L. H. S. Did you not after that lend my lord your coach?

Marq. of Worcest. Yes, I did, to carry him as far as Sandy-lane, on the road to London; but the particular day I remember not: but one of the persons examined (who was then my clerk of the kitchen) must needs know, because he books every day who is in the house, and therefore I believe what he has said is true.

L. Staff. Stephen Dugdale, I desire, may come again. I conceive I have made it plain to your lordships, that Dugdale did swear, That in August there was a consult at my lord Aston's where I was; and I conceive it is also clear that in August I was not there; and then if it were the beginning of September, that could not be neither; for I came not down to Tixall till the 12th. I beseech you to ask him when I offered him the 500*l.* to kill the king, I think he says it was the 20th or 21st.

L. H. S. What was the time my lord offered you the 500*l.*

Mr. Dugd. It was about that time, the 20th or 21st of September, to my remembrance.

L. Staff. He said positively before, it was one of those two days; I beseech your lordship to ask him where it was.

L. H. S. Where was that offer made?

Mr. Dugd. In my lord's lodging chamber at Tixall.

L. Staff. Then one question more, I desire your lordship to ask him, what day the race was at Etching-hill between sir John Crew's man and Lazingby?

Mr. Dugd. If it please your lordship, I do conceive it was about that time.

L. Staff. I pray he may answer positively, for, if you please, I will tell you how it was. It is very true, the 20th of September this fellow was in my chamber, and I shall trouble your lordships with some little discourse about it, and my reasons why: first, permit me to let you know, that this fellow did serve my lord Aston in the quality of a bailiff. And I never thought him to be an honest man, he was a mean servant, and when the other servants waited but till the second course came in, he staid till the coachman and the groom went to dinner, and eat with them. I profess before God it is true as that the sun shines, I have often and often, I cannot tell how many times, when I have been very dry at my lord's table, and seen him by me, not called for drink; I did detest him as so mean a knave, that I often refused to take drink at his hands: And now for me to offer this fellow 500*l.*—

L. H. S. I think your lordship says he was bailiff to my lord Aston?

L. Staff. But I knew him to be an arrant

knave, and a great gamester at races and such things.

L. H. S. My lord, would you have offered 500*l.* to an honest man to kill the king?

Serj. Mayn. You said you never saw him.

L. Staff. I said I had seen him, but now I did not know him by his perruwig.

L. H. S. Did you not know him, my lord?

L. Staff. No, my lords, I profess I did not.

L. H. S. Why, your lordship was agoing to shew that the race at Etching-hill was upon the 20th of September; and your lordship confesses, that he did speak with you on the 20th of September in your chamber; and Dugdale says, this day was the very offer made him of 500*l.* to kill the king. What do you say, Dugdale, were you at the race.

Mr. Dugd. Yes, I was with my lord at the race.

L. H. S. Did my lord speak with you before he went, or after?—*Mr. Dugd.* Before.

L. H. S. That morning in his chamber?

Mr. Dugd. Yes, it was that very morning, before he went to the race.

L. Staff. I do own, my lord, thus far; he was in my chamber that morning; but, my lord, I can prove what I say to you: My lords, the 20th of September in the morning, I was in my bed, and there comes a servant of mine that hath served me twelve or fourteen years, and he comes in to me, and says, Yonder is Stephen Dugdale, very desirous to go to this race. It seems he says he went along with me to this race.

Mr. Dugd. I say I went either before or after, or when you went to the race, for I was with you at the race.

L. H. S. Whether he went with you or no, is not the point, but whether he was in your chamber at that time.

L. Staff. It is the point; for he said just now, he went with me, as I apprehended him. But I tell your lordships, my servant came and told me, Stephen Dugdale desires that you would ask my lord Aston leave that he may go before to the race; my lord is angry with him already for his meddling in races, and he dare not ask himself. My lords, I was a little concerned in the race, for I had betted some money; and I thought with myself, should I ask my lord Aston leave for him to go, my lord will not deny me, but perhaps will take it ill to be asked, so I was not over-willing to do it. But I bid my servant call him in, and when he came, I asked him some foolish questions about the race, as who he thought would win, and the like; but I told him, I would get leave of my lord for him. My lords, I did go to my lord Aston, and told him, my lord, I am sending my servant before to the place of the race, but I am afraid he does not well know the way, shall Stephen Dugdale go along with him? My lord gave him leave to go. But, my lords, I dressed me, and did not speak one tittle more to this Dugdale, but he went before, and I was hardly or but just drest when he was gone.

L. H. S. I pray, my lord, was your lordship at no time alone with him in your chamber?

L. Staff. No, never since I was born, never in all my life.

L. H. S. No, my lord?

L. Staff. He says my servants used to come for him, I profess it is all false.

L. H. S. What say you to that, Mr. Dugdale?

Mr. Dugd. My lords, I was in my chamber, and busy when my lord sent for me that morning, and it was either by his page, or one that waits on him in his chamber; I went to my lord, and the page was in the chamber, and he ordered him to go out.

L. Staff. I declare and aver to your lordships he was in the hall, or the next room, and desired to come in.

L. H. S. Where is the page?

L. Staff. This fellow was but a poor boy, found at the door, then he was a thresher, and now a witness for the king.

Then my Lord Stafford's Man stood up.

L. H. S. What is your name?

Witness. My name is Nicholas Furnese.

L. H. S. Do you remember the day of the race at Etching-hill?

Furnese. Yes, I do, my lords.

L. H. S. Do you remember Dugdale was in your lord's chamber that morning.

Furnese. Yes, I do.

L. H. S. Do you remember whether your lord did bid you go out or no?

Furnese. No, he did not.

L. H. S. Were you there all the while Dugdale was there?

Furnese. Yes, my lords, I was.

L. Staff. Pray, my lords, ask him, whether I sent for Dugdale, or he desired to speak to me?

L. H. S. Did my lord send for Dugdale, or did he come to you to speak to my lord for him?

Furnese. No, Dugdale spoke to me first.

L. H. S. What did he say to you, pray?

Furnese. My lords about eight or nine in the morning, I came to go to my lord's chamber, and I came through my lord Aston's hall; and coming through, I met Mr. Dugdale coming to me, and said, he had one favour to desire of me. He said, he would fain go to the race; but, said he, I do not know how to go, for my lord is very angry with me, and, if I should ask him, he would be worse, for he is displeased that I have meddled so far in these matters already; therefore I desire some means may be used that I may go, and I desire that you would speak to my lord to get leave for me to go; for Mr. Fox is there, and hath a great deal of money in his hands, and divers people will give money to bett, and so it will be a great loss and prejudice to me not to go. So I did promise him, my lords, and I went into my lord's chamber, and told him; and when I had spoke to my lord, my lord bid him come in.

And when he came in, my lord asked him several questions about the race: My lord asked him what hopes he had, for he said a great deal of money was laid by several people; he replied, he could win, but he wanted money to bett: Says my lord, I will bett 20*l.* for Staffordshire sake, though I were sure to lose. And then after some discourse to that purpose, my lord told him, he would speak to his lord. After my lord was dressed, he went out of his chamber, and went to my lord Aston, to ask him leave for Dugdale; and my lord bid me make myself ready to go to the race. About nine or ten I was ready to go, and coming down the back-stairs my lord met me: Go, says he, to Etching-hill, and see what betts there are, and take Stephen Dugdale with you to shew you the way; for I have asked his lord leave for him to go. So Stephen Dugdale went along with me to the stable, and took out his horse; mine was not ready; but I overtook him in half a mile, and it was eleven o'clock ere we were at Ridgely. I asked him some questions about one Mr. Gerard; and I think about twelve we were at the race, and I staid till one with him and Mr. Fox, who was a party concerned in the race, and there were several betts laid. I was watchful when my lord should come, lest he should want me; so I left them, and went to the room where my lord was to dine; and when I went to my lord, I left him betting. About two, the lords and gentlemen all went to dinner (that were there), and when we had half dined, betwixt two and three, Dugdale came in, and we asked him how the wagers went; he said, he would bett gold to silver, if he had it, but he had betted away all his money, I knew not how much. So there was a gentleman that was servant to my lord Aston, one George Hobson by name, he lent him two guineas and odd money, and I lent him some 40 or 50 shillings out of my own pocket, which I told him, I would not lend, unless he would give it me at the hill again, before the race begun, because I was fearful my lord should go to Stafford again from my lord Aston's that night. About four or five I went up to the race, and demanded my money, and he paid it me before the race begun, and after the race was done, I lost him. My lord went home, and I waited on him. This was about five or six, and about the midway towards my lord Aston's house, he went into the coach, and I got on horseback, and we got home about six or seven, as I suppose. But at night after supper I enquired for Dugdale, how he took his losings, and how he did after it: They told me, he was gone to bed, so I saw him no more that night. The next morning, my lord bid me come betimes, for he would go to Stafford that morning, where we dined, at Mr. Abden's, and from thence took our way to go to my lord's own house.

L. Staff. Now, my lords, if you please to ask this boy, whether I bid him go and call Dugdale to me, and leave him there?

L. H. S. My lord Stafford did bid you, Mr. Furnese, go and dress yourself, and make you

ready for the race; did you not leave Dugdale behind you in the chamber when you went to dress yourself?

Furnese. No, my lord, Dugdale was gone thence; and my lord was gone too, before me, to my lord Aston's.

L. H. S. I still ask you the question (you are upon an obligation very great, as much as if you were upon your oath), Whether you were in my lord's chamber before Dugdale came in, and staid till after he went out?

L. Staff. And whether I bid him go out or no?

L. H. S. Were you there before Dugdale went in?

Furnese. He went along with me in; I conducted him in.

L. H. S. Did you stay all the while Dugdale was there?

Furnese. As near as I remember, I staid there all the while.

L. Staff. Ask him positively.

Furnese. Yes, my lords, I was there all the while Dugdale staid; but I cannot say positively how long it was.

L. H. S. Mr. Dugdale, you are upon your oath; he says he came in, along with you, and you went out of the chamber before him, and he was there all the while you were there.

Mr. Dugd. My lords, I am not positive which of my lord's servants it was that came for me; but one it was. But when I came into the chamber to my lord, my lord was getting up, and he charged them both to go forth, and the room was clear, and I saw nobody.

L. Staff. My lords, ask my man.

Furnese. My lord never bid me go forth that day, nor any else in my life, when any was in the room.

Mr. Dugd. My lords, if it please your lordships, Mr. Furnese was pleased to say, I would bett gold to silver; but in that he was mistaken, for the odds were quite six to four against us.

L. H. S. Well, we are not upon the race now, or the wagers laid there. But, gentlemen of the House of Commons, will you ask this man any questions?

Sir William Jones. No, my lords, we have none to ask.

Sir Tho. Lee. We desire to know where he lives now, what countryman he is, and what religion he is of.

L. H. S. Whom do you serve now?

Furnese. My lord Stafford.

L. H. S. Do you live with him still?

Furnese. Yes, I do, and have done this 14 years.

L. H. S. What countryman are you?

Furnese. A Dutch-man.

L. H. S. Where born?

Furnese. At Brussels.

Sir F. Winnington. We would ask him what persuasion or religion he is of?

L. H. S. You may be sure of what answer you shall have.

Furnese. I am a Roman Catholic.

L. Staff. That is as good as a Jew.

Mr. Treby. The question is not intended for any harm, not with any purpose to criminate him; it is only in regard of his credit in this matter.

L. H. S. Call another witness, my lord.

L. Staff. Where is George Leigh? (Who stood up.)

L. H. S. How old are you?

Leigh. I am about 15 or 16.

L. Staff. My lords, I believe he is 18 or 19.

Treby. Whose servant is he?

L. Staff. He is my servant; he hath served me 7 or 8 years.

L. H. S. What does your lordship call him for?

L. Staff. To tell you whether I bid my servants to go out when Dugdale came in, and whether ever he saw Dugdale and I alone.

L. H. S. George Leigh, how long have you lived with my lord Stafford?

Leigh. Seven years the 10th of June last.

L. H. S. Why then you were but 9 years old when you came to him?

Leigh. No, my lords, I think I was not.

L. H. S. Do you remember when my lord Stafford was at Tixall?

Leigh. I do not remember the month very well.

L. H. S. Do you remember the time of the race at Etching-Hill?

Leigh. I do not remember the day; but I was at it.

L. H. S. Did Mr. Dugdale come into your lord's chamber that morning?

Leigh. I do not remember he was there that very morning.

L. Staff. Be pleased to ask him whether ever I bid him go out of my chamber when Dugdale was there.

L. H. S. Did you ever see Dugdale any other morning in your lord's chamber?

Leigh. My lords, I think not; I am not certain: He was there one morning, and it was about a race; but I am not certain what race it was, whether it was two boys ran, or two men.

L. H. S. Did your lord bid you go out of his chamber?

Leigh. No, my lords.

L. Staff. Dugdale says I often sent him for him; pray ask him that question.

L. H. S. My lord, this boy does not remember that Dugdale at all was at your chamber that time of the race at Etching-hill; so that it is not material to the thing in question.

L. Staff. Yes, my lords, Dugdale told your lordships yesterday that I sent this boy often for him.

L. H. S. Did ever this boy come for you?

Dugdale. Yes, he hath, I am sure, come to my chamber for me to go to my lord.

L. H. S. Were you sent for by my lord more than once?

Dugdale. Yes, several times.

L. H. S. Before or after the race?

Dugdale. Both before the race, and after the race.

L. H. S. By whom were you sent for?

Dugdale. Sometimes by the gentleman that was last examined, and sometimes by this boy.

L. H. S. Did you ever come from my lord Stafford to bid Dugdale come to him?

Leigh. My lords, I do not remember that ever I did.

L. H. S. It is an hard thing to remember so long.

L. Staff. If ever he came once to me, and was alone with me, I will be content to acknowledge all this to be true. Pray ask the other man if ever I sent him for him.

L. H. S. He did testify before, that he came with him that day to your lordship's chamber.

L. Staff. That day, my lords: But he says, other days I sent for him.

L. H. S. Call Furnese again. (Who stood up.) Furnese, did my lord Stafford ever send you for Dugdale, either before or after the race?

Furnese. Never, my lords, to his chamber.

L. H. S. Did he ever in his life send you to Mr. Dugdale, to speak with him, as you remember?

Furnese. Never, my lords.

L. Staff. He was, my lords, such a fellow, I could not endure he should come near me; such an impudent lying fellow.

L. H. S. Have you any more witnesses, my lord?

L. Staff. Yes, a great many.

L. H. S. Call them all, I pray.

L. Staff. My lords, I hope you think I would not be so great and imprudent a fool to employ such a fellow as this, who not long after run away from my lord Aston's.

L. H. S. Who did?

L. Staff. Stephen Dugdale. And for that, if you please, I would call some witnesses.

L. H. S. Call Furnese again. (Who stood up.) Did you ever see Dugdale and my lord Stafford together?

Furnese. Never in my life.

L. H. S. Why, you saw them together that morning you brought him to the chamber. (Then the Auditory laughed.)

Furnese. Never alone.

L. Staff. I did not think I was in a cock-pit, or a play-house. But if your lordships please to let me call my witnesses, to prove that Dugdale ran away from my lord Aston, I shall call for that Thomas Sawyer. (Who stood up.)

L. H. S. What is your name?

Witness. Sawyer.

L. H. S. Your christian name?

Witness. Thomas.

L. H. S. Who do you live withal?

Sawyer. My lord Aston.

L. H. S. Where do you live?

Sawyer. At Tixall.

L. H. S. Are you my lord Aston's servant?

Sawyer. Yes.

L. H. S. How long have you been so?

Sawyer. Six years and ever since Michaelmas.

L. H. S. What have you to say?

VOL. VII.

Sawyer. As to Dugdale's reputation, I have this to say, How that he went from my lord Aston's for debt, and was taken by the watch at Heywood.

L. H. S. When was that?

Sawyer. The latter end of November, or the beginning of December.

L. H. S. What year?

Sawyer. (1678.)

L. H. S. Then the family broke up?

Sawyer. And coming thither, and being taken by the watch, he was brought by the justices to Tixall; and after the justices had been with my lord, their resolution was to carry him to the gaol. So coming to Tixall, where Dugdale was at an ale-house, he desired me to go to my lord, and desire him that he would own him as his servant, for he was so much in debt, that he should else be undone for ever. In the mean time Mr. Philips the parson of the town, had been with my lord, (for Dugdale had desired him to go to him also) and he asking me whither I was going; said I, I am going to my lord from Dugdale to desire him to own him as his servant. Said he, I have been with my lord just now, and he said, he will not own him as his servant; it was his own act and deed. So Mr. Philips and I came back to him, and told him. So he sat down in the chair, and then rose up again, and swore, He would be revenged of my lord Aston, if ever it lay in his power.

L. H. S. You never heard him say he would be revenged of my lord Stafford, did you?

Sawyer. No, of my lord Aston. Then another time, being at Stafford, he owed me 29*l.*, and he was under the serjeant's hands; and then he promised me from time to time he would pay me, and did not keep his word. This was three or four days before he began to peach. He bid me come such a day, and he would pay me part of the money; and when I came thither, he told me that it was reported that he should be a peacher; and that there was a speech, how that he should have 200*l.* for informing that there were fourteen priests in the country: But he takes a glass of drink, and, Thomas, says he, by God, I wish this may be my damnation and my poison, if I know of any plot, or any priests.

L. H. S. Was not he a papist then?

Sawyer. I cannot absolutely tell that, whether he was or no.

L. H. S. Do you know one Father Evers?

Sawyer. My lords, I have seen him.

L. H. S. Hath he never been at Tixall?

Sawyer. Yes, my lords, I have seen him there.

L. H. S. And have not you seen Dugdale in his company?

Sawyer. Yes, I have.

L. H. S. Did not you at Tixall think Dugdale a stout able fellow?

Sawyer. No, he never was accounted to be so.

L. H. S. Then I ask you, if you thought him an honest man, or a rich man?

Sawyer. No, truly, my lords: For I will tell

you more than that : My lord Aston employed him to be his bailiff, and receive his rents, and to pay workmen their wages, which he received every Saturday. And my lord Aston did account with him, where he did set his hand to receive the poor workmen's wages according to their bills, when they had not been paid some of them whole years, and half years, and quarters. And they came and cried to my lord, that they were not paid. And thereupon Dugdale did say, that one of them had demanded more of my lord than was his due ; for he said he had reckoned such a day with him, and paid him so much money ; which man said he was not that day at Tixall : And so he hindered him of part of his money.

L. H. S. Did you ever know that Dugdale did forswear himself ?

Sawyer. That I do not know, my lords, I did hear he was concerned in a race, about which there was a trial and a dispute which had won. This I have heard by report.

Sir Fran. Winnington. Speak your own knowledge, not reports.

L. H. S. I ask you, do you remember the day when my lord Stafford came to Tixall ?

Sawyer. He came on the 12th day of the month.

L. H. S. What, September ?

Sawyer. Yes, the 12th of September.

L. H. S. Did you ever see Dugdale in the company of my lord Stafford, while he was at Tixall ?

Sawyer. No, never in the house ; but at the race, he hath come into the parlour.

Mr. Treby. You had discourse with Dugdale : You say he took a glass and drank, and wished it might be his poison. Was not Father Evers that time at my lord Aston's ?

Sawyer. Not that I know of, my lords.

Mr. Treby. Was he not commonly there ?

Sawyer. Yes.

Mr. Treby. If he were, Mr. Dugdale must know it ; and how then could he take a glass, and wish it were poison, if he knew where any priest was ; since it was apparent he knew where that priest was ? It is most improbable Mr. Dugdale should say thus !

Sawyer. My lords, this was three or four days ere he confessed any thing he knew of his knowledge.

Mr. Treby. What persuasion of religion are you ?—*Sawyer.* Of the church of England.

Serj. Mayn. Pray, my lords, ask him one question ; he says Dugdale went away from my lord Aston's, was not there a speech of a plot (at that time) that was discovered ?

Sawyer. Yes, that I heard.

Sir Fr. Win. My lords, I would ask him one question more : Was there no discourse of the death of a justice of the peace that was said to be killed in London about that time ?

Sawyer. To my best remembrance, as I heard, there was.

Mr. Dugd. My lords, if your lordships please that I should call witnesses to confront him now, or afterwards ?

Sir W. Jones. Not now ; stay till your time comes.

L. Staff. Then call Philips. (Who stood up.)

L. H. S. What is your name, Sir ?

Witness. Ralph Philips.

L. H. S. What are you, a clergyman ?

Philips. Yes.

L. H. S. Are you beneficed ?

Philips. Yes, my lord.

L. H. S. Where ?

Philips. At Tixall, my lord.

L. H. S. You are a person that knows the obligation that lies upon you to give a true testimony ; what can you say of Mr. Dugdale ?

Philips. My lords, I have very little to say concerning Stephen Dugdale as to any thing of the plot, but in reference to what he should relate concerning Mr. Sambidge and me in the narrative which he deposed upon the Trial of sir George Wakeman : he said then he did receive a letter concerning the death of sir E. Godfrey, which was dated the 12th of October as I remember ; and that he did communicate the letter to Mr. Sambidge and me immediately the next Tuesday ; whereas I will assure you, my lords, I never heard neither by letter nor word of mouth from him nor any other, till it was publicly known.

L. H. S. You did not live in my lord Aston's house, did you ?

Philips. No, my lords.

Sir W. Jones. We know not what he says, we desire to understand what he means.

L. H. S. He takes notice that Dugdale at the Trial of sir George Wakeman did depose touching a letter dated the 12th of October, which should come down to Tixall, intimating the death of sir E. Godfrey, and that he did communicate that with the parson of Tixall and another, which parson comes now to say, he did communicate no such matter to him.

Sir W. Jones. We desire to ask him whether he was present at that Trial, and heard him say so ?

Philips. I was not present at the Trial, but if the Narrative of the Trial be truth, he did say so.

L. H. S. So then, you only come to disprove what is printed that Dugdale should say.

Philips. Then I leave it to your judgments, whether what he said in the Narrative of that Trial do concur with the truth.

L. Staff. I desire then to ask him whether Dugdale did not run away from my lord Aston's and would have him go to my lord to own him for his servant.

L. H. S. What do you know of Dugdale's running away ?

Philips. I know nothing at all of that, my lords.

L. Staff. Whether he did speak to him to own him for his servant when he was in the justice's hands ?

L. H. S. Can you say any thing touching the credit of Dugdale ?

Philips. I have nothing to say concerning Dugdale's credit.

L. H. S. Did you know him?

Philips. Yes, ever since I came to Tixall.

L. H. S. How long is that?

Philips. About 14 years.

L. H. S. What reputation had he in the country? Was he looked upon as one that would perjure himself?

Philips. I never knew any thing of that.

L. H. S. Was he thought a stout man?

Philips. He was in good repute, with some, and indifferent with others.

L. H. S. Will you call any more witnesses, my lord?

L. Staff. I would only ask him one question; whether he did go to my lord Aston from Dugdale to know if he would own him for his servant?

L. H. S. What say you, sir; did you?

Philips. Yes my lords, he knows very well I did; he did request me to go to him. My lord Aston I was loth to go to, because I had no familiarity with him, nor interest in him; but he did request and urge me so much, that I did go by much motives and persuasion from him, and I did speak to my lord: so I told him the message I had was from Mr. Dugdale, who would request of my lord that he would own him for his servant; for if he did not, he knew not what to do with himself: but if he did, he might be free from the gaol and from the oaths, and escape the troubles that were upon him. So my lord replied to me, It is his own act and deed, and I have nothing to do with him, and let the justices do what they will with him; which were sir Walter Bagott, and Mr. Kinnersley.

Mr. Foley. We desire to know whether he heard any discourse about a plot at that time or no?

Philips. Truly, my lords, I heard a talk of a Plot, but not at that time.

Mr. Foley. My lords, I desire to know if he took Mr. Dugdale for a person that might be in the plot, if there was any such thing?

Philips. I cannot tell how to answer that, it is a hard question; I am not so intimately acquainted with persons whose secrets are not reposed in me.

L. Staff. The next witness I desire may be (with the leave of the gentlemen of the House of Commons) Sir Walter Bagott; I did desire him to be here.

Sir W. Jones. There he is, we do not oppose it.

L. H. S. Is it your lordships pleasure that sir Walter Bagott be heard in his place?

Lords. Yes.

Sir Walter Bagott.

L. H. S. What would you ask sir Walter, my lord?

L. Staff. My lords, I desire to ask sir Walter Bagott, whether he did not apprehend Dugdale, and upon what account it was?

L. H. S. Sir Walter Bagott, my lord desires to know of you, whether you did apprehend Dugdale, and upon what account?

Sir W. Bagott. My lords, Mr. Dugdale was taken at an unseasonable time of night, and brought me the next morning by the watch, as the other witnesses have told your lordships. And I took him away to Stafford, where there were several other justices of the peace; there were offered him the oaths of allegiance and supremacy, which he took. After the taking of these oaths, we told him, that he was a likely man to know something of the plot; and it was a very proper time for him to discover it to us that were justices; he at that time did deny the knowledge of it; that is all I can say.

L. Staff. I desire sir Walter Bagott may be asked, whether he did not go to my lord Aston to see whether he would own Dugdale for his servant?

L. H. S. Did you ask my lord Aston to own him for his servant?

Sir W. Bagott. Yes, I did: for my lord's house being in the way to Stafford, whither I was going, I called upon him to know if Mr. Dugdale were his servant: he told me he was no servant of his, and he would not receive him: upon which I and another justice of the peace that was with me, took him to Stafford. The occasion of our meeting there, was to summon in the militia, upon an alarm of the papists being risen in Derbyshire.

L. Staff. I make this use of it, my Lords, that my lord Aston would not receive him: and if my lord Aston had known he had been in the plot, and could have discovered him, he would not have disoblighed him.

L. H. S. Nay, he says more than that, which you don't hear; he says, when they examined him, they gave him the oaths of allegiance and supremacy, and then told him he would do well to discover his knowledge of the Plot, and then he did not know any thing he knew; nay, he denied it.

Mr. Foley. Did he deny the knowing of it?

Sir W. Bagott. Yes he did then.

Sir F. Win. He was not resolved to discover at that time.

Serj. Mayn. We desire sir Walter Bagott may be asked whether he examined him upon his oath or no?

Sir W. Bagott. No, I did not.

Serj. Mayn. But had they then just given him the oaths of allegiance and supremacy?

Sir W. Bagott. Yes, my lords, we gave him those oaths, and those only.

L. Staff. Then Mr. Kinnersley, if you please. (Who stood up.) Be pleased to ask this worthy gentleman what he knows about Dugdale's going from my lord Aston.

L. H. S. First let us know this gentleman.

L. Staff. His name is Kinnersley.

Mr. Kin. What questions would your lordship ask me?

L. Staff. What you know about Dugdale's going from my lord Aston.

L. H. S. Mr. Kinnersley, we must know your christian name.

Kin. Thomas.

L. H. S. Do you know Mr. Dugdale?

Kin. My lords, I was not acquainted with Mr Dugdale till sir Brian Broughton, sir Walter Bagott, and I and others gave him the oaths of allegiance and supremacy, the latter end of November, or the beginning of December; I did not take notice exactly of the time.

L. H. S. What year?

Kin. 1678.

L. H. S. Well sir, go on.

Kin. When he had taken the oaths of allegiance and supremacy, I asked him if he knew any treason or conspiracy against the king, telling him it was a seasonable time to declare it. He told me he knew of none. This is all I know, and all the discourse that I remember, we had with Mr. Dugdale.

Serj. Mayn. Pray why did you ask him that question?

Kin. The plot was then newly broken out.

Serj. Mayn. Why did you ask him so particularly?

Mr. Treby. Why did you think Mr. Dugdale concerned in it.

Kin. Because we heard he was a papist, and my lord Aston's servant.

L. Staff. Then, I desire sir Thomas Whitgrave may be examined. (Who stood up.)

L. H. S. What say you to sir Thomas Whitgrave, my lord?

L. Staff. Will your lordships please to ask sir Tho. Whitgrave whether he did not examine Dugdale about the Plot, and what he said at that time.

Sir Tho. Whitgrave. My lords, I came to Stafford the latter end of November, or the beginning of December, I am not certain which; but I think it was this time two years. The deputy-lieutenants met about the militia of the county. They told me that Mr. Dugdale was in town, and was under an arrest: The occasion of his coming to town was his refusal of the oaths of allegiance and supremacy, which he hath since taken. I proposed to them the sending for him, for I thought this was a fit opportunity to get something of him about the Plot. They seemed to approve of what I said; but withal, I told them it was not good to send for him till the evening late, that the people of the town might not take notice of his coming. At night we did send for him, and the gentlemen desired that I would examine him at the end of the table: so I called him up, and told him, I was sorry he was fallen into that misfortune to be arrested, and that Mr. Mayor had not dealt well with him or us to take that advantage of him; that now he had taken the oaths, I looked upon him as one of us, and would do him any kindness I could. He said, truly, for his part, he was born a protestant, and of protestant parents; and it was his misfortune to fall into the houses of papists, but he never liked their religion. I then told him, sir, you may do yourself a kindness, serve God and oblige your king and country: I am very confident you know of this horrid Plot; pray do not stile your conscience with any oath of secrecy,

but let it come out. Many, I told him, strained their consciences to serve their intetests; but you may clear your conscience, and at the same time promote your true interest. He replied as he hoped to be saved, he knew nothing of it. And this is as much as I know of the matter.

L. H. S. Do you ask him any questions, gentlemen?

Manag. No my lord.

L. Staff. My lords, I shall humbly move your lordships now, that you will please to take notice, this fellow Dugdale, hath endeavoured to persuade people to swear against me falsely, and offered them money for it. In order to the proof of which, I desire your lordships would call John Morral, Samuel Holt, and William Robinson.

(Then Robinson stood up.)

L. Staff. This man I never saw before in my life.

L. H. S. What is your name?

Witness. Robinson.

L. H. S. What is your christian name?

Robinson. William.

L. H. S. Where do you live?

Robins. In Worcestershire now.

L. H. S. With whom?

Robins. With myself now.

L. H. S. Do you know Dugdale?

Sir F. Win. We desire he may give you an account of what profession he is of.

Robins. An upholsterer.

Sir F. Win. How long hath he lived in Worcestershire, and in what place there?

Robins. I have lived half a year in Worcestershire, half a mile beyond Worcester.

Sir F. Win. And whether he follows that trade or profession, now or no?

Robins. No, I do not follow it now.

Sir F. Win. What do you live upon, and how?

Robins. I live of myself now.

L. H. S. How is that?

Robins. Of my own money.

Mr. Hampden. We desire to know whether this man was a servant to my lady Gerard, or no.—*Robins.* Never.

Mr. Hampd. Or to my lord Gerard of Gerard's Bromley?

Robins. Never, not a hired servant, my lords.

Mr. Foley. Were you a volunteer servant, or what were you?

Mr. Treby. Did you work at any time there for my lord or lady Gerard?

Robins. No.

L. H. S. How came you to live there?

Robins. I went over from a cocking out of Cheshire.

L. H. S. How long were you there?

Robins. Three weeks or a month.

L. H. S. What was your employment there?

Robins. Nothing at all: I followed no employment.

Mr. Treby. What kind of servant were you then?

L. H. S. Come, do you know Dugdale?

Robins. Yes.

L. H. S. How long have you known him?

Robins. I have known him about five years.

L. H. S. What say you to him?

Robins. I say, I met Mr. Dugdale about Midsummer was twelve-month, in London, about Charing-Cross, and he carried me to the Harp and Ball, and gave me beer and mum, and such as the house did afford, and treated me; and asked me what made me so dejected and cast down. I told him I was not well; I was poorer than I used to be. He told me again, I should not want any money that he had; and if I would please to be ruled by him, and do what he would have me, he would furnish me with money. And he took his handkerchief out of his pocket, and bid me, if I wanted, take money there. I took none; but told him, I would not meddle nor make with any thing that night. Then he told me he could furnish me with money, and put me in a way to get money, if I would come in as an evidence against my lord Stafford.

L. Staff. Be pleased to ask him, for I never saw the man before, nor heard of him till last week, what he should say against me, and whether he knew me or not?

L. H. S. Did he tell you what you should say against my lord Stafford?

Robin. Nothing at all, my lords.

L. Staff. Did he say any thing or nothing? Or, did he ask whether he knew me or not?

L. H. S. Did you tell him you knew my lord Stafford?

Robin. No, if it please you, I told him I did not know him.

L. H. S. And after you said you did not know him, he offered you money to swear against him, did he?

Robin. Yes, my lords, he did so, to come in as an evidence against him.

L. Staff. Will your lordships please to ask how much money there was in the handkerchief?

L. H. S. How much money was in the handkerchief?

Robin. I believe there might be eight, or nine, or ten pounds.

L. H. S. Did he offer you all the money, or bid you take some?

Robin. He bid me take some.

L. H. S. Did he make any agreement with you for what you should take?

Robin. No, not at all, my lords.

Mr. Foley. Did you see Dugdale any more, or was there an end of it then?

Robin. No, I saw him no more.

L. H. S. Will you ask him any more questions?

Sir W. Jones. We shall have occasion to speak of him (we desire him not to go away) when our time comes.

Then another Witness stood up.

L. H. S. What is your name?

Witness. John Morrall.

L. H. S. What are you?—*Morrall.* A barber.

L. H. S. Where do you live?

Morrall. At Ridgeley.

L. H. S. Where is that?

Morrall. In Staffordshire, within six miles of Stafford.

L. H. S. What do you ask him?

L. Staff. Whether Dugdale did not persuade him to swear against some of the Lords in the Tower?

L. H. S. Do you know Dugdale?

Morrall. Yes, my Lords, I have known him 12 or 13 years.

L. H. S. What can you say against him?

Morrall. My Lords, this Mr. Dugdale, the 6th of August last was twelvemonth, sent for me to the White Horse in Ridgeley, and there, when I came to him, he told me I knew as much of the plot as he. I told him I was innocent of the thing. He swore God damn him, that I knew as much as he. Then I told him, if he knew no more than I did, he knew no more than my Lord Mayor's great horse did. Then he took me aside: Come, says he, you are a poor man, and live poorly, I can put you in a way whereby you may live gallantly; I will give you 50*l.* in hand, if so be you will do so and so, and 50*l.* more when the thing is done.

L. H. S. What do you mean by so and so?

Morrall. To swear against Mr. Howard, sir James Symons, and several other gentlemen of the country.

L. H. S. Did he offer you any money to swear against my lord Stafford?

Morrall. No, I did not hear him mention any thing of him.

L. H. S. But he offered you money to swear against Symons and Howard?

Morrall. Yes, my lord; and Herbert Aston, my lord Aston's kinsman.

L. H. S. What were you to swear?

Morrall. That they were at such a meeting at Mr. Herbert Aston's, upon the conspiracy of the plot.

L. H. S. Will you ask him any thing?

Man. No, set him by.

Then another Witness stood up.

L. H. S. What is your name?

Witness. Samuel Holt.

L. H. S. What profession are you of?

L. Staff. Pray, my Lords, ask him whether Dugdale would persuade him to swear that which he knew not.

L. H. S. What profession are you of?

Holt. A Protestant of the Church of England.

L. H. S. What trade?

Holt. A blacksmith.

L. H. S. Where do you live?

Holt. At Tixall.

L. H. S. Are you my lord Aston's servant?

Holt. No, my Lords.

L. H. S. What say you?

Holt. My Lords, He sent a man and a horse for me to Stafford, to the Star.

L. H. S. Who did?

Holt. Mr. Dugdale did. And there I waited upon him a good while. At length he came and told me he must speak with me privately; so he told me, if I would swear that Walter Moore carried Evers away, he would give me 40*l.* And he bid me not to be afraid to swear, for fear of my lord Aston; for he would hire me an horse, and get me to London, and place me that where I got one shilling I should get five.

L. H. S. Did you know Evers?

Holt. Yes, my lords, I have seen him.

L. H. S. Do you know when he went away from Tixall?

Holt. No, my lords.

L. H. S. What else can you say?

Holt. Nothing else.

L. H. S. Will you ask him any questions, gentlemen?

Man. No.

L. Staff. The next thing I go upon is, that Stephen Dugdale, at the trial of the five Jesuits, swore, that he acquainted Sambidge with the letter about the death of sir Edmundbury Godfrey, the Monday or Tuesday after, which Mr. Sambidge denies. And in order to that, I call Mr. Sambidge; but if your lordships please, I shall first prove that he swore it then. Where is Mr. Lydcott? (Who stood up.) I desire to ask him whether Dugdale did swear at the trial of the five Jesuits, that he acquainted Mr. Sambidge with the letter about the death of sir E. Godfrey.

L. H. S. You, fellow!

Witness. My lord.

L. H. S. What is your name?

Witness. John Lydcott.

L. H. S. How do you live?

Lydcott. I am a fellow of King's-college, in Cambridge.

L. H. S. What do you come to say?

Lyd. I do not know, my lords, what my lord will ask me.

Sir W. Jones. My lords, before you enter into the examination of this man, we desire to ask him a question or two.

Serj. Mayn. Whose servant are you, or were you lately?

Lyd. I am a fellow of King's-college.

Serj. Mayn. But whom did you serve lately? were you never secretary to a lord?

Lyd. Yes, I was.

Serj. Mayn. To what lord?

Lyd. To my lord Castlemaine, sir.

L. H. S. What religion are you of?

Lyd. Of the Church of England, and always was; nay, I cannot say always, for I was bred up a Presbyterian; my father was a colonel under Monk.

L. Staff. I ask whether you did not hear Mr. Dugdale swear at the trial of the five Jesuits?

Serj. Mayn. I desire one favour, my lords; my lord Stafford asks questions to lead the witnesses; pray let him ask his questions more generally,

L. H. S. You say you are a Protestant?

Lyd. Yes, my lords.

L. H. S. When did you last receive the sacrament?

Lyd. When I was last at Cambridge—No, not so; for it is not above a year ago that I was there.

L. H. S. When did you receive the sacrament?

Lyd. I do not exactly remember, my lords.

L. H. S. My lord, I would be glad to know what is the question your lordship calls him for, that your lordship may not ask the question, but by me.

L. Staff. I desire to know (for my part I know not what his answer will be) whether he did hear, at the trial of the five Jesuits, Dugdale swear he had communicated the news of sir E. Godfrey's death, which was on the Saturday, and on the Tuesday after to any people, and to whom.

L. H. S. Were you at the trial of the five Jesuits?

Lyd. Yes, I was.

L. H. S. Did you hear Dugdale swear there, and give his testimony?

Lyd. Yes, I did.

L. H. S. Do you remember what Dugdale swore then?

Lyd. Very well.

L. H. S. What was it?

Lyd. My lords, Mr. Dugdale spoke of a letter that came down to my lord Aston's on the Monday, and he imparted it on Tuesday after, at an alehouse, to one Mr. Sambidge, and Mr. Philips: this was also at sir G. Wakeman's trial, which I took notice of more particularly, because I had occasion to take some notes there.

L. H. S. What use do you make of this, my lord?

L. Staff. If that be allowed to be so, then I will call no more witnesses; otherwise I have more.

L. H. S. Call them all.

L. Staff. Then call Mr. Charles Gifford.

Serj. Mayn. Pray, my lords, give me leave to ask this young scholar one question before he goes. By whose commendation or means did you come into that college?

Lyd. By election from Eton.

Serj. Mayn. Who promoted you?

Lyd. One Mr. Doyley, now senior fellow of King's-college; it was his election.

Sir F. Win. My lords, I would ask him one question. He says he went to take notes; by whose direction did he go to take notes at sir G. Wakeman's trial?

Lyd. It was for my own curiosity.

L. H. S. Friend, it is all one as if you were upon your oath, and as penal to you: by whose direction did you go?

Lyd. It was partly my own curiosity, and partly to see what evidence was against my lord; for my lord Castlemaine thought himself concerned as well as others, and therefore desired me to go.

Sir F. Win. Now it is out.

Sir W. Jones. It was done like a secretary.

L. H. S. Had you ever that curiosity before?

Lyd. Yes, I will assure your lordships, I had a great curiosity to hear it.

L. H. S. Were you at any other trial?

Lyd. Yes, at the five Jesuits trial, and Langhorn's.

Then another witness stood up.

L. H. S. What is your name?

Witness. Charles Gifford.

Ld. Staff. Ask him whether he did not hear at the trial of the five Jesuits, or sir G. Wakeman, Dugdale say, that he did communicate that letter to some people, I name not who, the Tuesday after.

L. H. S. Were you at the trial of the five Jesuits?

Gifford. Yes, my lords.

L. H. S. Did you take notes?

Gifford. Yes, my lords, I was summoned there as an evidence; I had occasion of being there, both at the five Jesuits trial, and Wakeman's, and Langhorn's.

L. H. S. You took notes, you say?

Gifford. Yes, I did.

L. H. S. What do you remember that Mr. Dugdale did then swear?

Gifford. I remember at the five Jesuits Trial, he did swear he received a letter sent to Evers, which he intercepted, and it spoke of the death of a justice of peace; and he returned answer to Evers again, He would be hanged if it did not spoil the business. And he said farther, he could not hold, but went to an alehouse and there he did impart it. But then he did say there was one that could testify and make out what he said: Upon which he called Mr. Chetwyn, who deposed much to the same purpose. And then at sir G. Wakeman's Trial he did positively declare, that he spoke of it at an alehouse to a minister, parson Philips, and my lord Aston's kinsman.

L. H. S. What is his name?

Giff. Mr. Sambidge.

Ld. Staff. Well, my Lords, I have no more to say to him: But I conceive by this it is plain that Dugdale did then say, he had communicated it to Mr. Philips and Mr. Sambidge. I shall call Mr. Sambidge to give you an account.

Mr. Sambidge stood up.

Ld. Staff. Be pleased to ask him whether he did hear Mr. Dugdale say on the Tuesday, that sir E. Godfrey was murdered the Saturday before.

L. H. S. You hear the question, answer it.

Samb. Who must I speak to?

Ld. Staff. He is very deaf, and very old, my Lords.

Then the Black Rod was sent to be near him, to put the question to him.

Black Rod. What would you have him asked, my Lord?

Ld. Staff. Whether Mr. Dugdale did tell him on the Tuesday, that sir E. Godfrey was murdered the Saturday before?

Black Rod. Did Mr. Dugdale tell you of the Tuesday, that sir E. Godfrey was murdered the Saturday before?

Samb. No, my Lords, he never told me any such thing, I take it upon my salvation. I never heard it till Friday or Saturday he was found at Bury-hill.

Ld. Staff. Ask him if he were with Dugdale at the alehouse the Tuesday before.

Samb. Dugdale never spoke any such thing to me.

L. H. S. Were not you with him at the alehouse?

Samb. No.

L. H. S. Not on Monday?

Samb. No.

L. H. S. Nor on Tuesday?

Samb. No.

L. H. S. Nor Wednesday?

Samb. Not as I know of.

Sir W. Jones. We shall prove he was.

Ld. Staff. Pray ask him what reputation Dugdale hath in the country.

Samb. Oh, the wickedest inan that ever lived upon the face of the earth! I know great part of it myself; and a hundred and a hundred of people will say as much.

L. H. S. What religion are you of?

Samb. I was never a papist in my life, nor ever a fanatic.

L. H. S. What do you know of Dugdale in particular, that is ill?

Samb. Yes, my Lords, I will tell you; he was a very abusive man, especially to the clergy, and most especially to Mr. Philips, with whom I boarded. My lord Aston that is dead, came and told me of it. Said I, you are misinformed, for this Dugdale is a knave and a rogue, and all the country rings of him for his wickedness. Upon which, he cites me into Litchfield court for defaming him; and he entertains all the proctors, that I could not get one to put in my answer: But before the day came, he discharged the court, and never appeared; for we had that against him that he durst not appear.

L. H. S. What particulars do you know?

Samb. He said the clergy of England was a lewd clergy, and a pack of rogues.

L. H. S. Gentlemen of the House of Commons, will you ask him any questions?

Manag. No.

L. H. S. Hath my lord no more to say to him?

Ld. Staff. No, my Lords.

L. H. S. My lord Stafford, go on: Hath your lordship done with Dugdale, or have you any more witnesses?

Ld. Staff. No, my Lords; I have a great deal more to say to him.

L. H. S. Go on then.

Ld. Staff. My Lords, I conceive by this, it is proved to your lordships, that Dugdale did at that trial declare, he had acquainted Mr. Sambidge and Mr. Philips with the letter about the death of sir E. Godfrey, the Tuesday after he was murdered. And I conceive I have

proved to your lordships, by their denying it, that he did not tell them so; and so he is forsworn in that. I should now have humbly desired your lordships, that you will please to call William Day; but upon asking the question, I find he is not yet come to town, and so I shall not trouble your lordships with him: I desire that Thomas Sawyer may be called again. Who stood up.

Ld. Staff. Pray be pleased to ask him, whether he did not hear Dugdale wish he might be damned if he knew any thing of the plot.

L. H. S. He said that before.

Ld. Staff. Then I beg your lordships pardon, I shall not call him again.

L. H. S. Go on, my lord.

L. Staff. My lords, there are a great many other witnesses which I could call; but it is to no purpose, and so I shall call no more as to Dugdale. I conceive upon the whole matter, his reputation and credit are gone; for he is forsworn before the justices of peace, in that he said there was no Plot, and wished he might be damned if he knew of any Plot. I conceive it is also proved, that upon the 20th of September, when he says, I did communicate with him about the king's death, he was only then with me upon his own desire, and my servants were by: there was nothing discoursed of but about the foot-race. And likewise, as to what he swore in August, that I was at such a meeting at Tixall, he is forsworn, for I was not there; and so I hope that witness is laid aside; no creature will give any credit to him, neither your lordships nor the House of Commons.

L. H. S. Have you done with Mr. Dugdale?

L. Staff. Yes, my lords.

L. H. S. Whom will you proceed against next?

L. Staff. Dr. Oates.

L. H. S. Call Dr. Oates.

L. Staff. Only give me leave to say one thing, my lords, that you were pleased to say, I should have copies of the two depositions of the 24th and 29th of December: and I had one to enquire, but cannot find that of the 29th. (Then Dr. Oates stood up.)

L. H. S. What say you to Dr. Oates, my lord?

L. Staff. This Dr. Oates, if your lordships please, I desire may be asked, when was the first time he ever saw me in his life.

L. H. S. When was the first time, Dr. Oates, you saw my lord Stafford?

Oates. My lords, the first time I saw this gentleman at the bar, was, as near as I remember, at Mr. Fenwick's.

L. H. S. That was in Drury-Lane?

Oates. Yes, my lords.

L. H. S. When was that?

Oates. That was, as near as I remember, in June.

L. H. S. Was it that time the commission you spoke of was delivered?

Oates. Yes, my lords.

L. H. S. Did you see that commission?

Oates. Yes, my lords.

L. H. S. Did you read it?

Oates. Yes, my lords.

L. H. S. From whom was it?

Oates. I cannot be positive as to that; but, as near as I remember, it was signed as the rest was signed.

L. H. S. How was that?

Oates. Johannes Paulus Oliva.

L. H. S. You read it?

Oates. Yes, I did, my lords.

L. H. S. It was a commission to be paymaster of the army, was it not?

Oates. Yes, it was.

L. H. S. And it was delivered to my lord?

Oates. Yes, it was.

L. H. S. By the name of Mr. Howard of Effingham?

Oates. Yes, my lords.

L. H. S. What says your lordship to this?

L. Staff. What is it possible for me to say against this? I declare to your lordships, in the presence of God, I never saw the man in my life. I never went by any name, since I had the honour of being a peer, but by the name of Stafford. I never heard of Mr. Fenwick the jesuit, nor by the name of Thompson, till this Plot was discovered and he taken. This you may believe, or not, if you please; but this is as true as I am alive. My lords, I desire I may have out of the Journals the Deposition on which I was committed.

L. H. S. Turn to the Journal.

L. Staff. It was read, as I remember, Friday October 25, 1678.

Then the Clerk turned to the Journal and read.

"October 25, 1678.

Clerk. "The lord viscount Stafford acquainted the House, That he was informed that there was a warrant issued out from the lord chief justice of England to apprehend him, which he thought fit to acquaint their lordships with, and submitted himself to their lordships judgment.

"The Lord Chief Justice being present, was commanded to give the House an account of the business; who said, That last night, about nine o'clock, he received a letter from the Speaker of the House of Commons, dated from the Speaker's chair, to come to the House of Commons about business of great concernment. Accordingly he attended the House of Commons, where the Speaker told him, That the House of Commons had received Accusations of high-treason against five lords, and some gentlemen, and desired him to issue out his warrants for their apprehension. The persons were, the earl of Powis, viscount Stafford, the lord Arundel of Wardour, the lord Petres, and the lord Bellasis. And upon this he issued out his warrants for their apprehension, having taken the Examination of Titus Oates upon oath. That the earl of Powis and the lord Arundel were brought to him this morning in custody; and he advised them to render themselves to the Gatehouse, where now they are.

"Upon this the Examination of Oates was read, whereby it did appear, that the lord viscount Stafford was charged to be in a conspiracy of treason against the king.

"The lord viscount Stafford denied the fact, and after this withdrew. And after a while the House was informed that his lordship would render himself to the lord chief justice."

L. H. S. This is all that is in the Journal.

L. Staff. Then, my lords, if your lordships please to remember, all of you that were there, that I was accused by Dr. Oates, whose depositions I desire to see, taken before my lord chief justice, that he had seen letters of mine written to Fenwick, Harcourt, and some others, three or four jesuits, in which I was consenting to the Plot; that I had sent my son to Lisbon, yet I would be as kind to the jesuits as before, though there was some difference between us. These Affidavits I desire to see, which, as I take it, were read before your lordships that day.

L. H. S. The affidavit was taken by my lord chief justice in the House of Commons, where he did attend them upon their summons: I know not if the original were read in the House of Lords, or the copy; but it seems it is not entered into the Lords Journal; but your lordship had an order to take copies of all things you would have demanded; and if you would not, I cannot tell what to say to it.

L. Staff. Truly I could not take a copy, because I did not know where it was. I desire my lord chief justice may be asked where it is; that is all I desire, and I will then go on.

L. H. S. I think Dr. Oates does say at this time that he had seen letters of your lordship's offering your correspondence and assistance.

L. Staff. If Dr. Oates will own he said no more than is in that affidavit, I am content.

L. H. S. Have you any copy of your own examination, Dr. Oates?

Dr. Oates. Yes, my lords, I think I have it here.

L. H. S. Marry, that is very well; produce it then. Do you oppose it, gentlemen?

Manag. No, we agree; we desire the truth may come out.

Then Dr. Oates looking among his Papers, drew out one, and offered it to the Court.

L. H. S. Is that a true copy of your first examination?

Dr. Oates. My lords, I will not swear it, but it was given me for a true copy.

L. H. S. By whom was it given you?

Dr. Oates. I cannot remember now, it is two years ago.

Sir W. Jones. Unless we know whence it comes, or what authority it hath, we cannot consent it should be read.

L. H. S. Had you it from my lord chief justice, or any servant of his?

Dr. Oates. I cannot tell whether sir Charles Harbord gave it me, or no.

Sir F. Win. My lords, sir Charles Harbord might be of the Committee of Examinations;

VOL. VII.

but the examination for which my lord asked, was not in the committee nor before the House: my lord chief justice retired out of the House, *et virtute officii* took it. Now it was very fair in Mr. Oates to produce it; but yet in point of evidence, if he will not swear it to be a true copy, or give an account how he came by it, we cannot allow it to be read.

L. H. S. My lord Stafford, it is you that want this paper, you desire to have the benefit of the examination that was taken of Mr. Oates, and therefore you must produce a copy of it.

L. Staff. My lords, I could never get it.

L. H. S. It is not entered in our Journal, nor is it to be traced; we know not where it is: You have had time enough to look after it. You are now offered by Oates himself a copy that was given him for a true copy, though he cannot swear by whom. Are you content that shall be read, if the gentlemen will admit it?

L. Staff. By what I guess of Dr. Oates, (I know him not) he would not give in a copy of an examination unless it were true; if it be true, I know not what should hinder the reading of it: But as far as concerns me, I desire it may be read.

L. H. S. You do consent, and will you, gentlemen, permit it?

Serj. Mayn. We do not know whence it comes; we cannot admit it unless Oates says it is true.

Sir W. Jones. My lords, it hath been long in the Doctor's possession, he hath read it over, he cannot say it is a true copy; but I desire to ask him whether all in that writing be true, and whether he did swear what is in that writing.

L. H. S. If your lordships please thus, and you gentlemen of the House of Commons, the best way to have an answer to this question is, that it may be read *de bene esse*.

Sir F. Win. Pray, my lords, let him read it over to himself privately, and then let us know whether he can swear the same things that are in that paper.

(Which Dr. Oates began to do.)

Dr. Oates. Your lordships ask only as to my lord Stafford?

L. H. S. My lord desires no more; but pray read it over all, and give your answer to all; for that question, may be, will be asked in other cases, and it is fit you should be provided for it. (Which he did.)

L. H. S. What say you, Doctor?

Oates. My lords, I do verily believe I did swear the contents of that paper.

L. Staff. My lords, I do not oppose the reading of that paper; but I have here a copy of something in the Journal, and do not stand upon my memory; but I think upon the viewing of it now, there is something in the copies of the Journal.

Clerks. We cannot find it.

L. Staff. Then read this paper.

L. H. S. Will you have this copy of the examination read, or not?

L. Staff. Yes, my lords.

4 X

Clerk. "The Examination of Titus Oates clerk, taken before us"—

L. H. S. When was that?

Clerk. The 24th of October, 1678.

L. H. S. That was read the 25th, the next day, in the House of Lords.

"The Examination of TITUS OATES, clerk, taken by us this 24th of October, 1678.

This Examinant saith, That in the month of May last, this examinant saw a patent under the seal of the father-general of the society of Jesus at Rome, called Johannes Paulus Oliva, at the chamber of Mr. Langhorn, wherein it was expressed; That by virtue of a Breve from the Pope, he did constitute the lord Arundel of Wardour Lord High Chancellor of England, which patent was sent to the lord Arundel of Wardour by a messenger, who was the son of Mr. Langhorn. And this examinant saith, That he saw a letter subscribed by the lord Arundel of Wardour, as he believes, wherein the lord Arundel did acknowledge the receipt of the said patent, and accepted of the same, and promised to answer the expectation of the society.

This examinant saith, That in June last he saw the like patent, wherein the lord Powis was constituted Lord Treasurer of England, which patent was carried by one Parsons, secretary to the lord Powis, from one Sanders's house in Wild Street, to be delivered to the lord Powis; and at the delivery of the patent 300*l.* was paid by Parsons to Fenwick and Ireland, to carry on the design of the Jesuits; which was to raise a rebellion in the three kingdoms, and to destroy the king.

In the month of July this Examinant saw a letter subscribed Powis, and directed to Fenwick, wherein his lordship did acknowledge the receipt of the said patent, and did accept of the same, and said he had three hundred men and horse ready for the design, and that his lordship would venture his life and fortune in the affair.

In the month of August last this examinant saw a letter directed to Mr. Langhorn by the outside, but within to the Society of the Jesuits, wherein sir W. Godolphin acknowledged he had received the like patent to be Lord Privy Seal, and had accepted thereof; and in July 1677, this examinant saw the same in the hands of the archbishop of Tuam, at Madrid in Spain.

This Examinant saith, That in July last Mr. Coleman acknowledged and confessed to Fenwick, in this Examinant's presence, that he had received the like patent to be secretary of state, and that it was a good exchange.

This Examinant saith, That in May, June, July, and August last, this Examinant saw several letters signed Stafford, whereby it appeared that the lord Stafford was in this conspiracy against his majesty, and that he had returned several sums of money to the Jesuits to carry on the design; the letters were directed to Fenwick and Ireland; and in August last this Examinant saw another letter, directed to the

same persons, signed Stafford, wherein my lord writ, that although he had sent his son to Lisbon, yet he would be never the worse friend to the Jesuits; and this examinant conceiveth the reason of that letter was, because there was then a difference between the English college at Lisbon and the Jesuits. In July last this Examinant saw in the hands of Fenwick, a commission directed to the lord Bellasis, from the person aforesaid, to be lord general of the army to be raised in England against his majesty; and in July this examinant saw a letter from my lord, directed to Fenwick, wherein his lordship acknowledged the receipt of the commission, and thanked the society for the same, and that he accepted the same, and would do what in him lay to answer their expectations.

In May last this Examinant saw a patent in the hands of Mr. Langhorn, to make my lord Petres lieutenant general of the army; and in June last this Examinant did hear my lord Petres, in the presence of Mr. Langworth his confessor, acknowledge the receipt of the same, and that he accepted thereof, and his confessor wished him much joy thereof."

L. Staff. My lords, If this be owned for truth that he swore, then I proceed upon the evidence of that.

L. H. S. Without allowing it to be a true copy, Dr. Oates at the bar does swear what is said there is true.

L. Staff. Then he says there, he saw letters signed by me to Fenwick and others: I do humbly desire to know whether that be evidence or no, that a man says he saw letters, and does not say he knew them to be my hand, nor what the letters were in particular; nothing that he did prove of it. I must appeal to your lordships, to all my lords, to my Lord High-Steward, and the rest that were of the council at that time, Whether Dr. Oates did not positively name some, and left me out at the council-table? And whether Dr. Oates did not say there was no lord concerned in the Plot, and whether some of my lords did not say so, and told some other lords of it, from whom I had it? And in order to this, I desire sir Philip Lloyd may be examined; and if he did not know of my being in it, then he hath since forsworn himself.

L. H. S. My lord, I know not where you are, nor what you are about: Are you objecting against Oates upon any evidence out of the Journal?

L. Staff. My lords, I go upon this that hath been read.

L. H. S. Pray, my lord, produce your witnesses that did hear him say any thing, and take your advantage of it.

L. Staff. I call sir Philip Lloyd.

L. H. S. Where is sir Philip Lloyd?

L. Staff. My lords, I do not know; I think he is here, I hope he will come.

[Then he appeared amongst the Members of the House of Commons, and was called to the bar amongst the other Witnesses, and stood up.]

L. H. S. What does your lordship ask sir Philip Lloyd?

L. Staff. Whether he was not by when Dr. Oates was asked, if there were any lords concerned in the Plot, and he said, No; and whether he did not tell me so a day or two before I was committed, in the Prince's lodgings?

L. H. S. What say you, sir Philip Lloyd, did you ever hear Dr. Oates deny upon his oath, that ever he heard of any lords that were concerned in the Plot?

Sir P. Lloyd. My lords, truly I cannot remember any such thing: If my lord put me in mind of any particular circumstance or time, I may recollect it: I must confess I think I have heard such a thing rumoured; but I am so unfortunate I cannot remember anything positively of it.

L. Staff. He did tell me so, I am sure.

Sir P. Lloyd. Truly, my lords, I would be glad to remember any thing to justify the truth; but I cannot remember this.

L. Staff. But whether it were so or no, your lordships that were of the council can tell.

L. H. S. My lord, I do not know. Your lordship cannot be refused, if you press it, to ask any of the lords of the council, if they remember any such thing that did pass there; but if I were there or in the council, I deal plainly with your lordship, I cannot say that there was any such thing said.

L. Staff. If there be any here that were there besides, I desire they may be asked.

L. H. S. If your lordship will call upon any other of my lords that were there, they will tell you.

L. Staff. I do not know who were there, I cannot call them.

L. H. S. You may ask any of the lords of the council, who were there that time Dr. Oates was examined.

Marq. of Worcester. My lords, I was not at the council then; but I heard it, not there indeed, but as a general report abroad.

L. Staff. I desire my Lord Privy-Seal may tell what he knows of it.

Lord Privy-Seal. What is it your lordship would know of me?

L. Staff. Whether Oates did not say he had no more to accuse?

L. Privy-Seal. Where, my lord?

L. Staff. At the Council-Table.

L. Privy-Seal. It is a very hard thing for me to charge my memory with all the questions at an examination; we use to refer to the examinations themselves: I have seen some examinations, I wish all were so, wherein the questions are put down as well as the answer; and I cannot charge my memory that he said he had no more to accuse.

L. Staff. I desire, then, all the lords of the council that are here to say, whether or no he was not asked this question particularly by my Lord Chancellor, (and I desire particularly his lordship would say whether he cannot remember it) Whether he had any thing to say against some lords? And he answered, They were to

know of it, but God forbid he should accuse them.

L. H. S. When should that be?

L. Staff. My lords, I cannot say the day, for I was not in town. But I desire to ask, whether you did not ask him upon the first discovery of the Plot, whether he had any thing to say against some lords?

L. H. S. Do you desire to know whether I asked him this question, If he had any thing to say against some lords?

L. Staff. I do not say positively your lordship, but whether that question was not asked him?

L. H. S. Certainly I should never ask any such question of any man alive. I might ask in general of any lord, but not of some.

L. Staff. Some or other lords it was.

L. H. S. I do not remember it; and it is impossible for any man living to remember what questions he did ask two or three years ago upon an examination.

L. Staff. I desire I may have leave to ask the earl of Berkley a question.

L. H. S. What is it you would ask him?

L. Staff. My lords, I humbly ask his lordship, whether he did not hear Dr. Oates say, after he had accused some persons before the council, that he had no more to accuse?

E. of Berkley. My lords, I had the honour to be of the privy-council about the time of the discovery of the Plot; but I do not remember that I heard Dr. Oates say any such thing there.

L. Staff. Or in the House of Lords; for I may mistake. And therefore I desire my lord of Berkley would declare what he heard Dr. Oates say before the House of Lords.

E. of Berkley. Yes, my lords; in the Lords House I will tell your lordships what I remember. My Lord Chancellor; to the best of my remembrance, did ask Dr. Oates, at the bar of the House, this question—My lords desire to know, if you can accuse any other person or persons, of what quality soever, and you are encouraged by their lordships to accuse them: His answer was—My lords, I have no more to accuse in relation to England, but in relation to Ireland I have.

L. H. S. That was after he had accused your lordship, my lord Stafford.

Sir W. Jones. We pray, my lords, we may have the favour to ask that very honourable lord, at what time, Dr. Oates said this, for the satisfaction of those that are present.

Earl of Berkley. My lords, It was after Dr. Oates had accused my lord Stafford, but before he had accused the queen.

L. Staff. I beseech you, my Lords, to mark it, (and I am very glad of it) he said he had no more to accuse in relation to England, and yet after that he accused the queen.

L. H. S. My lord, Then the best account of it will be on the journal; the question and answer is entered there.

October 31, 1678, p. m.

" Titus Oates being at the bar, is directed to

proceed in giving an account of the commissions given to several lords and other persons for offices civil and military. Upon which he proceeded in a particular Narrative thereof, with some circumstances tending to make out the truth thereof, and was then commanded to withdraw; but stay without. Then upon consideration had hereof, the lord chancellor, by directions of the House, caused him to be called in again, and told him, that the Lords expect not his entering into particular circumstances, but if there be particular persons concerned, of what quality soever they be, the House expected he should name them: but he named none but those he had mentioned in his Narrative, nor could name no other person."

L. Staff. Then my lords, he said, he knew no persons more than he had discovered; and after, did he not accuse the queen, and several others? If he said true, then he knew no body more; if not, he is forsworn.

Sir W. Jones. Pray prove he did accuse the queen.

L. Staff. He did so in the council, and he is clearly perjured in that, and so not to be believed. And I say besides, after that Dr. Oates had consulted with himself, and possibly with some others, what his Narrative should be, and what he should accuse persons of and did only accuse me of seeing some letters signed Stafford, and now he comes to give evidence, he knows more of my having a commission. After this rate, it may be he may know a great deal more to morrow, when he hath invented it; And it is a great sign he did not know of any more, if he did know of that; for I never had any correspondence with the Jesuits, nor any business transacted with them these 24 or 25 years. Indeed at Ghent the English Jesuits were desired to do a little thing for me, and they refused it me; it was to send over a man that was to be a witness in a suit I had beyond sea: And I never writ one letter to a Jesuit since, nor he to me, that I know of, nor never had to do with them, that I know of. I never heard of Fenwick's name, nor Harcourt's till I heard of the Plot; nor of Johnson nor Thompson, Jesuits: And if any can prove it, I will acknowledge myself guilty of all that is said against me. And for that Dr. Oates at first said, he only saw letters of mine, and after comes and accuses me of a commission, I appeal to your lordships if there can be any truth or belief in him. I cannot say more than what I have said already, and I do challenge Dr. Oates, at the day of judgment, to say, if ever he saw me in his life till I was committed; or if I did ever go by any name but that of Stafford, I will be content to die immediately. If I had gone by the name of Howard, I need not be ashamed of it: for it is a name good enough to be owned. I know there is a worthy gentleman that bears the name of Howard of Ethingham, but I never did. If your lordships please to let me ask Mr. Dugdale one question.

L. H. S. Call Dugdale again. (Who appeared) What say you to him, my lord?

L. Staff. I desire to ask Dugdale whether he did not, in his Depositions before Mr. Lane and Mr. Vernon, swear, that the 20th of October I offered him 500*l.* to kill the king?

Dugd. No, September.

L. Staff. Ay, September.

Dugd. Yes, I think I did make that Deposition before captain Lane. I am certain I did that my lord Stafford the 20th or 21st of September offered me 500*l.*

L. Staff. Then did he not say presently upon this, he went to Mr. Evers's chamber?

L. H. S. He says so now.

Dugd. My lords, I am not certain it was the same day; it was as soon as I could have opportunity, it was presently after.

L. Staff. Did he not say he told Evers what I said to him, and he did not understand the meaning of it?

Dugd. I did say so to Mr. Evers: I did ask Mr. Evers what my lord Stafford's meaning was; whether his intention was true or no, to do as he said, and whether my lord was in that condition, as to be able to perform his promise, for I feared payment of the money; and he told me, Harcourt and the rest of the Jesuits would furnish it.

L. H. S. So he said yesterday.

L. Staff. Then ask him if he did not say, the beginning of September I met him at Tixall, and I spake to him about such a business.

Dugd. My lords, I did say, to the best of my remembrance, it was about that time, the latter end of August, or the beginning of September, I would not be positive, nor could not, to five days.

L. Staff. No, I think not to 5,000. Then I asked him this question, whether he did not presently upon that, when I told him about the design, go to Mr. Evers, and asked what it meant.

L. H. S. He said so but now, he went to Evers and asked what you meant.

L. Staff. I beseech you I may be understood whether he did not say in the beginning of September, which was before the 20th or 21st, in the Journal.

L. H. S. Is it in the Journal?

L. Staff. Yes.

L. H. S. Why then read it.

December 28, 1678.

The earl of Essex acquainted the House, that he had received an information out of the country of very great concernment which was read as followeth:

Staffordsh.

December 24, 1678.

The Information of Stephen Dugdale, gent. late servant to the lord Aston of Tixall, concerning the Plot against our sovereign lord the king, as followeth:

1. This informant saith, that presently after one Howard, almoner to the queen, went beyond the seas, he was told by George Hobson,

(servant to the said lord Aston) that there was a design then intended for the reformation of the government of the Romish religion.

2. He informeth, That in the beginning of September, 1678, he met in Tixall, nigh the lord's gates, the lord Stafford, who said to this Informant, it was sad that they were troubled, for that they could not say their prayers but in a hid manner, but suddenly there would be a reformation to the Romish religion; and if there was but a good success, they should enjoy their religion. And upon the 20th day of September last, the said lord Stafford told this informant that there was a design in hand, and if this informant would undertake the design, he should have a good reward, and make himself famous.

3. Upon the aforesaid day, immediately after, this informant went into the chamber of Mr. Francis Urie, alias Evers (a Jesuit), in Tixall-hall, and asked him what the lord Stafford meant by those words; and after he had made him to swear secrecy upon his knees, he told him he might be a person employed in the work, and have a good reward that would make him famous: and then he told him he must be instrumental with others in taking away the king's life; and that it should be done by shooting or otherwise. And that this informant need not to fear, for the pope had excommunicated the king, and that all that were excommunicated by him were heretics, and they might kill them, and be canonized for saints in so doing.

4. This informant saith, that the said Evers and Hobson both said, that the design was as well to kill the duke of Monmouth as the king.

5. That George North (nephew to Pickering, and servant to the lord Aston,) lately told this informant, that they had taken his uncle, (meaning Pickering) and put him into Newgate; and thought the king deserved such an execrable death as was intended him, because of his whoring and debauchery.

6. That Mr. Evers said, Mr. Bennyfield had a packet of letters delivered to him from the Posthouse, which he feared the Lord-treasurer had notice of, and therefore he delivered them to the duke of York, and the duke delivered them to the king, and that the king gave them to the treasurer, after he had read them; but that the king did not believe them, and therefore it was happy, or else the plot had been discovered.

7. That he had received many packets of letters for Evers, some of which this informant broke up, and found them to be and tend to the establishment of the Romish religion, &c.

8. That he had received several sums of money himself, and knew of divers others that were employed to put forth money, which was and is for the Jesuits use.

STEPHEN DUGDALE.

Taken upon oath the 24th day of

December 1678, before us,

Tho. Lane. J. Vernon.

L. Staff. My lords, I find by this here, that presently after one Howard, almoner to the queen, went over, George Hobson, servant to my lord Aston, told Dugdale there was a design to reform the government, &c. I beseech your lordships I may ask him, how long after he went over this discourse was.

Dugd. I do not say I knew George Hobson before he came to be a servant to my lord Aston, which was in 1678, but that this was only a discourse to me, that the plot had been so long carrying on.

L. Staff. He says upon his oath, presently after the almoner went over, he told him so. Now the almoner went over three years before that, when the proclamation came out to banish the queen's servants for being Papists.

Dugd. I heard it there; I never knew George Hobson before he came to be a servant to my lord Aston, but I did not tell it as a discourse at that time, or that it was more than what I had from him, that there was such a design so long before.

L. Staff. He says, presently after the almoner went over, in his oath; which was, I think, in 1672 or 73, or rather in 1675, about the end of 1674, as I remember. And he says presently, three years after; is that presently? Even now the end of August was the beginning of September, and how long that was we cannot tell, and now three years is presently after.

Sir W. Jones. He is telling of another's discourse with him.

L. H. S. My lord, you must observe that Dugdale says, that he did hear it from Hobson after he came to my lord Aston's service.

L. Staff. But he says, presently after the almoner went over; and it is impossible; for he did not say it till three years after, and so there is no truth in him.

Dugd. My lords, it was, that Hobson told me, that presently after the Almoner Howard went over, there was such a design carrying on.

L. H. S. You distinguish not, and therefore do not comprehend. It is one thing if Dugdale had said, that presently after there was such a design, Hobson told him so.

L. Staff. I beseech you, it is said, that presently after the almoner went over, Hobson told him so.

L. H. S. But it is not that presently after he heard the discourse; but George Hobson told him, that presently after the almoner went over, there was such a design.

L. Staff. It is said he was told presently after.

(Then the Information was read again.)

L. H. S. Do you know when Howard the almoner went over?

Dugd. No, my lords; but by report I heard when he went: But I do not make that part of my oath, for I cannot absolutely remember it.

L. H. S. My lord, you must not make a strain to make a mistake.

L. Staff. God's life! is three years a strain?

Dugd. I never did mean so, nor never did

intend so, for I never knew him till he came to my lord Aston's; but he told me then this discourse.

L. H. S. My lord, this is only a question of grammar, how it can be construed.

L. Staff. My lords, I beg your pardon; it is to my little reason a question of sense, and it is plain to me it can have no other sense; but I submit it to your lordships, whether this be not the true construction.

L. H. S. Go on, my lord, with your evidence, notice will be taken of your objection; you shall see what they say to it; if they do not give it an answer, it will have its weight.

Sir W. Jones. We will give that an answer in due time.

L. Staff. Then the next he says, I talked with him at my lord Aston's the beginning of September, where he met with me at Tixall at the gate, and I said, it was sad we could not say our prayers, but in private. Truly, my Lords, I cannot say I did not say this to him; but if I did say it, I do not remember it, or that I ever thought so much; for I was so much of a contrary opinion, that I thought those of that religion said their prayers too openly, and have chid them for it. And why should I speak it to him, whom I did not know what religion or what profession he might be of? And presently after I spoke of these things, he says, he went to know what the design was, and then Mr. Evers told him of the plot, and yet yesterday he said he knew it sixteen years ago. How can all this be true? And besides it seems I could have no great power with him to persuade him, for it seems he mistrusted my ability to pay; and he had reason, for I should hardly have parted with 500*l.* in the condition I was then in, to any one; but I have no more to say to him now. There is a third witness, one Turberville, I desire to ask him a question.

L. H. S. Call Turberville. (Who stood up.)

L. Staff. I desire to know what time he came to serve my lady Molineux (for it is in the beginning of the Information in the House of Commons, that he came in the year 1673), and how long he staid with her.

L. H. S. My lord Stafford, if your lordship please, there was an offer made to you, that those Affidavits should be produced, if you desired to see them.

L. Staff. I think I shall have no occasion as yet; it may be I may by and by: but I desire to ask him this question first, Whether he did say he came in 1673 into my lady Mary Molineux's service, and staid with her about three years?

L. H. S. Did he swear in the year 1673 he came?

L. Staff. It is so in his Narrative in print.

L. H. S. Do you own that Narrative in print for true?

Mr. Tur. No, my lords.

L. H. S. How can you challenge him, then, with a Narrative he does not own?

L. Staff. Then what can a man do, if he must not go according to what is printed?

Mr. Tur. There is a mistake in the printing of it, there is a mistake of 1673 for 1672.

L. Staff. I now desire that Affidavit may be produced.

L. H. S. Pray let him have the benefit that was offered him of the Affidavit.

Mr. Tur. Besides, I declared I could not be positive to a year; I own any thing else in it.

L. Staff. Then my lords, if I shall have fellows that will not swear to months nor to years I beg of your lordships to know whether these be legal witnesses.)

Manag. The Affidavit is in the custody of sir W. Poulteney, a member of our house.

Sir W. Poulteney. My lords, I have the Affidavit; if you please, I shall give you an account what I did upon it, and sir Thomas Stringer, another justice of peace. My lords, after that Mr. Turberville had given his Evidence to the House of Commons, *viva voce*, he tendered to them this Information that I have in my hand. The House of Commons, after it had been read, thought it might be convenient to have it sworn to before two Justices of Peace. Whereupon sir Tho. Stringer and myself withdrew into the Speaker's chamber. Mr. Turberville came to us, we read over the information to him again, and after we had read it over it was signed, and he swore it. In this Information when we then took it, he declared there, That he came to my lord Powis in the year 1673, and came into England 1676. After we had sworn him, we carried this Information into the House again. The next morning, my lords, he came to me (I being one of the justices that had sworn him) and told me, that searching among his papers the last night for a letter, which he said he had received from my lord Stafford, sent to Diep; though he could not find the letter he looked for, yet he found that precise time that he went to live with my lord Powis was 1672, and the precise time of his coming into England was 1675. And he desired me to acquaint the House of Commons with it, that this circumstance in time might be altered. Whereupon, my lords, I did acquaint the House of Commons with it how he was mistaken in that point of a circumstance of time; and that he came of his own accord, and desired me to move the House in it. I moved the House, and they did direct we should withdraw again, and take his information again, and that he should amend it. He amended it, and made the 73, 72; and 76, 75; and then afterwards we swore him to it again *de novo*: and this is the matter of fact concerning the Affidavit.

L. H. S. Sir William Poulteney, did Mr. Turberville correct the mistake himself first, or was it found altered by others?

Sir W. Poulteney. My lords, he came to me, for I did not know any thing of it, that he was mistaken; but he came to me the next morning as soon as ever I came to the House, before indeed I entered into the House, and told me of the mistake; and told me the reasons how he came to recollect himself, and find out the mistake.

L. H. S. Mr. Turberville, I would ask you the question, how you came to be informed that you had mistaken yourself?

Mr. Tur. My lords, I will tell you: I was searching for a letter I received from my lord Stafford, and missing that, I found my discharge I had from the French army, wherein I saw a mistake as to the time, and that I have to produce.

L. H. S. I ask you again by the oath you have taken, did you correct it of yourself, or by information from any other?

Mr. Tur. By the oath I have taken, I did correct it of myself, and no body moved it to me.

Serj. Mayn. It was but a circumstance of time.

Sir F. Win. And corrected by himself the very next morning, my Lords.

L. Staff. He does acknowledge he did forswear himself once and did make himself an honest man the next day, when he was a perjured villain the day before. And now he tells your lordships, that he was searching for a letter that I sent to him, but he cannot find it.

Mr. Tur. No, my Lords, I thought I had it, but I cannot find it.

L. Staff. No, I will swear thou canst not. But then he does say that he had a discharge from the French army.

Mr. Tur. Yes, it is here, my lord.

L. H. S. Is that the paper of your discharge?

Mr. Tur. Yes, it is. It is worn out a little and torn, but the seal is preserved: I did not know that ever I should have occasion to make use of it; but my lord challenging me for a coward, and a deserter of my colours—

L. Staff. I believe so still, for I have heard so.

L. H. S. Your honour is not in question, Mr. Turberville.

Mr. Tur. The title is a little torn; and if your lordships please, I will read it: (which he did, being in French, and is rendered in English in these words:

"This certifieth all to whom it shall appertain, that I have given an absolute discharge to the Sieur Turberville, a cavalier of my company, after having served the space of six months with all honour and fidelity. Therefore I desire those that are to be desired, to treat him civilly, and let him pass and repass, and without doing him any injury, or giving him any hindrance; but on the contrary, to afford him all aid and assistance where it shall be necessary, promising the like upon all occasions that shall require it. In confirmation of which, I have for him signed this present discharge, and thereto put the seal of my arms, to serve him in case he shall need it. Made at the camp before Aire this 4th of August, 1676. SHELTON."

L. H. S. What is the date of that discharge, Turberville?

Mr. Tur. It is in August 1676.

L. Staff. May I see it, my Lords?

L. H. S. Yes. Deliver it to my lord. (Which was done, and he looked upon it.)

L. Staff. The thing looks like truth, but there is no proof of it.

Mr. Tur. The seal is a little broke, but the name remains perfect.

L. Staff. He says there is a dismissal from the army in 1676; how will that rectify his mistake about 1673? I understand not that.

Then the Court called for the Paper: and it was looked upon by the duke of Monmouth, and some other lords.

L. H. S. My lord, this paper hath been looked upon; the hand is well known by those that should know it.

L. Staff. I do not say the contrary.

L. H. S. Whereabouts are you now, my lord, then?

L. Staff. I am extremely faint and weary, that I am sure of. This gentleman told you yesterday, that he spoke with me several times in France, and that he was conversant with me for a fortnight together; that he visited me, and I proposed the killing of the king to him; and that he refused to give me an answer then, but told me he would give it me at Diep: This he said yesterday, as I remember. And afterwards, when he was gone down, he came up again, and desired to put your lordships in mind of a particular circumstance which he said he did remember, That when he came to me, I had the gout, and was in a lower room of the house, in such a street, which faced Luxembourg house, all which I stand not upon; and that the prince of Conde lived in the same street, on the left-hand he said first, after on the right-hand, and after he knew not where, and that I did lodge in the same street.

Mr. Tur. I did say, I believed the prince of Conde lived there, but I was not positive.

L. Staff. No; but first he swears a thing, and then only believes it. Be pleased to call my servants, to know if ever I had my foot ill of the gout in my life.

Mr. Tur. Your lordship told me it was the gout.

L. Staff. If ever I put my foot on a stool, or was lame there, I will own all that he says. But when a man swears his evidence, and goes down from the place, and then invents, and comes up again to tell new stories, who shall believe such a man?

Mr. Tur. I never went from the bar.

L. Staff. I do say, you went down, and had given all your evidence, and came up again, and told this circumstance. I have not been lame, not one moment, these 40 years; and yet this fellow, this impudent fellow, to say, that I was lame, and put my foot upon a stool! He does not, my Lords, swear positively in any thing but this, and this I can easily disprove him in.

L. H. S. What say you to this particular, Turberville? Had my lord Stafford never the gout while he was in France?

Mr. Tur. He told me it was the gout, my Lords: He had a great lameness, he could not go from one place to another. Here are

several people to give testimony that my lord was lame within less time than he says.

Mr. *Foley*. Hold, hold, Turberville, you must not give that evidence now.

L. *Staff*. Call Nicholas Furnese again.

L. *H. S.* What do you call him for?

L. *Staff*. Ask whether ever he saw Mr. Turberville with me in France?

L. *H. S.* Were you with my lord Stafford all the while he was in France?

Furnese. Yes, my Lords.

L. *H. S.* Did you never see Turberville there?

Furn. No.

L. *H. S.* Pray, did you never see Father Anthony Turberville there?

Furn. No, my Lords, I never heard of his name.

L. *Staff*. Was I ever one moment lame while I was in France?

Furn. Not that I remember.

L. *H. S.* How long was my lord there?

Furn. About three months.

L. *H. S.* What time of the year?

Furn. At Paris in October and November, in December at Rohan, in January we came over into England.

L. *Staff*. Ask him if ever I put my foot upon a cushion or upon a stool for lameness.

L. *H. S.* Mr. Turberville, did you ever see Furnese when you were in France?

Tur. This man, my Lords?

L. *H. S.* Yes.

Tur. No, not that I remember.

L. *H. S.* In what quality did you serve my lord in France, Furnese?

Furn. My Lords, I waited on him in his chamber.

L. *H. S.* Do you remember any other servant of my lord's that you did see there?

Tur. Truly, my Lords, I do not remember, I might forget him.

L. *Staff*. So I believe thou dost me too.

Tur. Your lordship that could call me coward, may say any thing.

L. *Staff*. You shall be as valiant as Hector, if you will. Pray call my other boy. (Who stood up.)

L. *H. S.* You little boy, Were you all the while with my lord that he was in France?

Leigh. Yes, my lords.

L. *H. S.* Did you ever see Turberville there?

Leigh. No, my lords, not that I know of?

L. *H. S.* Had my lord the gout in France?

Leigh. No; nor never had since I have been with him.

L. *H. S.* That is six years.

Leigh. Seven years almost, my lords.

L. *H. S.* Are you sure of that?

Leigh. I am sure of it.

L. *Staff*. Now, my lords, Mr. Turberville says, I writ him a letter to Diep, which letter he cannot find; I beseech you, what were the contents of the letter?

L. *H. S.* What were the contents of the letter my lord sent you?

Tur. The contents of the letter were, That I should not stay at Diep in expectation of him, for he had appointed a yacht to come to Calais; but I should make what haste I could to London, and there I should meet with him.

L. *Staff*. I desire to ask, whether I sent him word that count Gramont came over with me.

Tur. Yes, my lords, to the best of my remembrance.

L. *Staff*. I shall now bring witnesses that I did not come by Calais, but by Diep, and count Gramont came not with me.

L. *H. S.* Mr. Turberville, which way came you, from Diep, or from Calais?

Tur. From Diep, my Lords.

L. *Staff*. And I came from Diep too.

L. *H. S.* My lord came that way too, he says.

Tur. I know not of that, he sent me word otherwise.

L. *Staff*. I shall now prove what I say. Pray call Mr. Wyborne. (Who stood up.)

L. *H. S.* What do you ask him, my lord?

L. *Staff*. Whether he did not see me at Diep, and embark from thence for England?

Mr. *Wyborne*. My lords, I will give you an account as well as I can. In 1675, in December, I had occasion to go over into France upon my own concerns; and enquiring where there was a conveniency to go over, I heard that a yacht was sending to Diep for my lord Stafford, and Mr. Henry Sidney, his majesty's envoy extraordinary now in Holland: I took that occasion, and we weighed anchor on Friday the 24th of December: and it being foul weather, and we being tossed long upon the sea, we did not come to an anchor before Diep till the Sunday was se'nnight at 2 o'clock in the afternoon, which was January the 2nd. Then I came with the captain immediately on shore, to enquire for my lord and Mr. Sidney; I enquired for my lord, and they told me he was at Rohan, expecting to hear of the arrival of the yacht: Upon which the captain desired me to write a letter to my lord, and I did so; upon sight of which letter, he came to Diep on Tuesday in the afternoon, which was, as I take it, the 4th of January, and we were at the Bastille there then together when he came that evening. And the next day I went on my own occasions to Paris, and my lord and Mr. Sidney did come over together in the yacht.

L. *Staff*. If you please, I will call my two servants again to this matter.

L. *H. S.* Call them, my lord.

Then Furnese and Leigh stood up.

L. *H. S.* Which way came my lord Stafford out of France into England, by Diep or Calais?

Furn. By Diep.

L. *H. S.* What say you, boy? Which way came my lord?

Leigh. By Diep, my lords.

L. *H. S.* You came with him?

Leigh. Yes, we did.

L. H. S. My lord, the question is not, whether you came by Calais or no, but whether you writ a letter to him to Diep, that you would go by Calais.

L. Staff. He swore yesterday that I did come by Calais.

L. H. S. Do you say my lord came by Calais?

Tur. My lords, I had a letter from his lordship, which he wrote to me, that he would come by Calais.

L. Staff. He did not name the letter yesterday, nor is it in the Information.

L. H. S. Read the Affidavit.

THE INFORMATION OF EDWARD TURBERVILLE, of Skeer, in the county of Glamorgan, gent.

Who saith, That being a younger brother, about the year 1672, he became gentleman-usher to the lady Mary Molineux, daughter to the earl of Powis, and by that means lived in the house of the said earl above three years; and by serving and assisting at mass there, grew intimate with William Morgan, confessor to the said earl and his family, who was a Jesuit, and rector over all the Jesuits in North Wales, Shropshire, and Staffordshire. And he during the three years time often heard the said Morgan tell the said earl and his lady, That the kingdom was in a high fever, and that nothing but bloodletting could restore it to health, and then the Catholic religion would flourish. Whereunto the said earl many times replied, It was not yet time, but he doubted not but such means should be used in due time; or words to that effect. And he heard the lady Powis tell the said Morgan and others, publicly and privately, That when religion should be restored in England, which she doubted not but would be in a very short time, she would persuade her husband to give 300*l.* per annum, for a foundation to maintain a nunnery. And this informant was persuaded by the lady Powis, and the said Morgan, to become a friar; the said lady encouraging this informant thereunto, by saying, That if he would follow his studies, and make himself capable, she questioned not but he might shortly be made a bishop by her interest in England; because upon restoration of the Catholic religion, there would want people fit to make bishops, and to do the business of the church. And thereupon she gave this informant 10*l.* to carry him to Doway, where this informant entered the monastery, and continued about three weeks, and with much difficulty made his escape thence, and returned for England; for which the said earl and his lady, and all the rest that encouraged him to go to the monastery, became his utter enemies, threatening to take away his life, and to get his brother to disinherit him: Which last is compassed against him. And Father Cudworth, who was then guardian of the friars at Doway, some days before his escape thence, told this informant, That if he should not persevere with them, he should lose his life and friends:

And further added, That this king should not last long, and that his successor should be wholly for their purpose. And Father Cross, provincial of the friars, told this informant, That had he been at Doway when this informant made his escape thence, he should never have come to England. And this informant finding himself friendless, and in danger in England, went to Paris, where one of his brothers is a Benedictine monk, who persuaded this informant to return for England; and in order thereunto, about the latter end of November, 1675, he was introduced into the acquaintance of the lord Stafford that he might go for England with his lordship, and three weeks he attended his lordship, and had great access and freedom with his lordship, who gave him great assurances of his favour and interest to restore him to his relations esteem again: And said, That he had a piece of service to propose to this informant, that would not only retrieve his reputation with his own relations, but also oblige both them and their party to make him happy as long as he lived. And this informant being desirous to embrace so happy an opportunity, was very inquisitive after the means; but the said lord Stafford being somewhat difficult to repose so great a trust as he was to communicate to him, exacted all the obligations and promises of secrecy, which this informant gave his lordship in the most solemn manner he could invent. Then his lordship laboured to make this informant sensible of all the advantages that should accrue to this informant, and the Catholic cause; and then told this informant in direct terms, That he might make himself and the nation happy, by taking away the life of the king of England, who was an heretic, and consequently a rebel against God Almighty. Of which this informant desired his lordship to give him time to consider, and told his lordship that he would give him his answer at Diep, where his lordship intended to ship for England, and to take this informant with him; but this informant going before to Diep, the lord Stafford went with count Gramont by Calais, and sent this informant orders to go for England, and to attend his lordship at London: But this informant did not attend his lordship at London, but went into the French service, and so avoided the lord Stafford's further importunities in that affair. And this informant further saith, That one Remige, a Frenchwoman, and vehement Papist, who married this informant's brother, lived with the lady Powis all the time this informant resided there and some years since, and was the great confidant of the said lady; and the said Remige was for the most part taken with her ladyship into Morgan's chamber, when the consultations were held there, where he hath often seen Father Gavan, Father Towers, Father Evans, Father Sylliard, Roberts, White, Owens, Barry, and the earl of Castlemaine, and other Priests and Jesuits, meet and shut themselves up in the said Morgan's chamber, sometimes for an hour, sometimes for two hours, more or

less; and at the breaking up of the said consultations, have broke out into an extacy of joy, saying, They hoped ere long the Catholic religion would be established in England, and that they did not doubt to bring about their design, notwithstanding they had met with one great disappointment, which was the peace struck up with Holland; saying, That if the army at Black-heath had been sent into Holland to assist the French king, when he was with his army near Amsterdam, Holland had certainly been conquered, and then the French king would have been able to assist us with an army to establish religion in England. Which expressions, with many others, importing their confidence to set up the Romish religion, they frequently communicated to this informant. And the said Morgan went several times into Ireland, to London, and several other parts of England, as this informant hath just cause to believe, to give and take measures for carrying on the design: And the said Remige and her husband having first clandestinely sold their estate, and fled into France about May or June last, for fear of discovery; this informant by many circumstances being assured that the said Mrs. Remige was privy to all or most of the transactions of the Plot. And he saith, That about May last was two years, he was present at mass with the lord Powis in Vere-street, when the earl of Castlemaine did say mass in his priestly habit, after the rites and ceremonies of the Church of Rome.

EDWARD TURBERVILE.

Sworn the 9th day of November, 1680, before Thomas Stringer, William Poulteney, and Edmund Warcupp.

L. H. S. My Lord, this affidavit is to the purpose to which you call for it; this does say, that your lordship did go by the way of Calais, it does absolutely so.

L. Staff. Now, whether he be forsworn or no, your lordships may judge by these three witnesses.

Mr. Tur. My Lords, That which I grounded my belief of his going to Calais upon, and so consequently that affidavit, was the letter which I received from my lord; which I have looked for, but cannot find.

L. H. S. This affidavit does not say you went from Calais to England, but you went with count Gramont to Calais.

Ld. Staff. I conceive, my Lords, this affidavit and his narrative are word for word the same, only that amendment of 1672 for 1673, upon which I observed before he was forsworn once. I cannot tell what to say, if this man can be believed. And count Gramont came to Diep too. But besides, my Lords, in this affidavit he does not say he believed so by the letter, though now he speaks of one.

L. H. S. My lord Stafford, was count Gramont in your lordship's company when you came to Diep?

Ld. Staff. No, my Lords, he was in England before me a month; but, my Lords, I cannot

deny but I had one recommended to come over with me, that pretended himself to be a French count, but the man was as arrant a rascal as this that swears against me; and that was one that called himself count de Bricenne, whom all the world knows to be a cheat.

L. H. S. Call your other witnesses, my lord.

Ld. Staff. Where is John Minhead? (Who stood up.)

L. H. S. Who do you belong to?

Minhead. My lord Powis.

Ld. Staff. My Lords, Mr. Turberville, he says, by the persuasion of my lady Powis went to Doway, and he staid in the monastery three weeks, and not liking that life, he came away (this may be true, I say nothing to it): but that which I take exception at, is this; he says, for this the earl of Powis and his lady, when he came back from Doway, were very angry with him, and so were all his relations, and he stood in fear of his life from them. Surely when Mr. Turberville knew he was in such danger, he would not have come near them: pray ask this gentleman, whether he was at my lord Powis's, and how he was entertained.

L. H. S. Do you know Turberville?

Minh. Yes, my Lords.

L. H. S. Have you seen him at my lord Powis's?

Minh. Yes, my Lords.

L. H. S. How was he received there?

Minh. Very well, my Lords.

L. H. S. When was that?

Minh. In the year 1675.

L. H. S. Was that before or after he came back to England?

Minh. It was after he came from Doway.

L. H. S. What countryman are you?

Minh. A Frenchman.

L. H. S. What religion are you of?

Minh. A Roman Catholic.

Ld. Staff. Pray ask him whether he lay in my lord's house?

Minh. Yes, my Lords, he lay with me in my lodgings.

Ld. Staff. And yet he says he was afraid of his life.

L. H. S. Did my lord know he lay there?

Minh. Yes, he must needs, because he came through the room to go to bed.

Ld. Staff. May it please your lordships, he says he was threatened that he should have his brother disinherit him, and which afterwards was compassed. Now I shall shew that this is impossible, for he had no inheritance to lose, nor was to have none; for his brother, who is elder than he (this man being by a second venter), hath children, as I shall make appear by another of his brothers, who is here. And this not being settled upon him, who was by the second venter, could not come to him; but, for want of issue of that brother, must go to the uncle. So he swears he was disinherited of an estate, when he was to have no estate, nor could have. Call Mr. John Turberville: (Who

appeared). My Lords, I desire you to ask him, whether he knew that upon his coming back to England he was ill used?

J. Tur. I never knew any unkindness from my elder brother to him.

L. H. S. Are you his brother?

J. Tur. Yes, my lords, by the father, not by the mother.

L. H. S. Well, what can you say?

J. Tur. I never heard any thing when he returned from Doway, that he was ill received by my lord Powis; but in a few days after my brother and sister came to town, we went to Bloomsbury, and there we met together: And my brother complaining that he was unfortunate, in that he had undertaken what he could not perform in going beyond sea, and now wanted a livelihood; my eldest brother told him, he had done as far as his ability, he could do no more, it was his own choice, and he had no more to say.

Ld. Staff. Had he any money from his relations?

J. Tur. He made intercession by friends to my sister, and she told me, that she gave him 7*l.* to bear his charges to Paris, with that proviso, that he would never trouble them more.

L. H. S. But they were not angry with him?

J. Tur. Here he is, he cannot say they ever gave him an angry word in their days; I am sure I never did.

L. H. S. Did you forbid him the house?

J. Tur. No.

Ed. Tur. These are people that take not the oaths of allegiance and supremacy, and therefore are not fit to be witnesses.

Ld. Staff. Now your lordships see what a villain he is.

Serjeant Maynard. You must give good words, my lord, for none but good words are given you.

Ld. Staff. I must call them villains, or myself traitor.

L. H. S. You say they gave him 7*l.* upon condition they should never see him more.

J. Tur. I did not say, my sister said upon condition she would give him 7*l.* he would never trouble us more: It was his declaration.

Ld. Staff. One thing I would ask Mr. Turberville more, and that is about this man's being disinherited: Whether he could, or whether he was heir to an estate or not?

L. H. S. What say you to it?

J. Tur. By all the information of our relations, the estate was made by my grandfather to my father for life, and after my father's life, to my mother; and after my mother's life, to my eldest brother, and the heirs male of his body; and for want of such, afterwards to me, and the heirs male of my body; and in case I had none, then to my father's brother, and his heirs male; and if he had no heirs male, then after that to the right heirs of the grandfather. This was before my time.

L. H. S. Well, then, that remainder to the right heirs might come to him; and so there

was some estate for him to lose, and that remainder might be docked by the tenant in tail. I would ask, was there any recovery suffered to bar that entail?

J. Tur. Yes, I think there was one upon my brother's marriage.

L. H. S. Mr. Turberville, were you told you should be disinherited?

E. Tur. Yes, my lords.

L. H. S. Who told you so?

E. Tur. My eldest brother.

L. H. S. What did he tell you?

E. Tur. He told me it should not come to me.

L. H. S. How should it come to you?

E. Tur. I am not so good a lawyer as to tell that, whether it could or no; but I thought by succession.

L. Staff. Then he says he came to serve my lady Mollinenx in 1672; it may be it is so as he says, I do not know it of my own knowledge; but I pray he may answer, whether it was in 1671, or 1672.

E. Tur. In January or February, 1671.

Mr. Treby. That is in the beginning of the year 1672, according to the almanack.

L. Staff. My lords, for the present I do not remember any thing more—Oh, yes, my lords, he says he was at such a time at my lord Powis's, when my lord Castlemaine was at Powis-Castle, which must be either in the year 1672, 1673, or 1674. Now I desire you would ask Mr. Lydcot, whether my lord Castlemaine was there, or could be there in any of those years (Then Lydcot stood up).

L. H. S. What do you ask him, my lord?

L. Staff. I desire to ask him, whether in the year 1672, 1673, or 1674, which are the years Turberville says he was at my lord Powis's at Powis-Castle, whether my lord Castlemaine was at Powis-Castle, or could be there at that time.

L. H. S. Was my lord Castlemaine there in any of those years?

Lydcot. My lords, I can prove he was not, as much as I am capable of proving a negative. I was with him in the years, 1672, 1673, and 1674.

L. H. S. Where?

Lydcot. He was in England in 1673; I was with him all the while, and I am sure since I knew him he was never in Wales, and I was never absent from him since I knew him (which is nine years), not four months in all: I have travelled with him, and been abroad with him.

L. H. S. Turberville, when do you say my lord Castlemaine was at Powis-Castle?

Tur. I think it was in the year 1673.

L. H. S. By what token do you remember him there?

Tur. He was arguing with my lord Powis about religion, and several times he did so: I believe it was in the year 1673.

L. H. S. What say you to that?

Lyd. I can assure your lordships he was not there then; I was always with him that year: he had many times a design to go there, but

he could not but put it off; and the last time he was there, I can prove it was 15 years ago.

L. H. S. I desire to know of you this, friend; can you take it upon you to affirm upon the faith of a Christian, that you were never from my lord Castlemaine all the year 1673?

Lyd. I can give an account to half a week where he was; and when I was absent from him, it was beyond sea, and all that while I kept correspondence with him every post, and received letters from him constantly once a week, dated from Liege; this was in the time of my absence.

L. H. S. Were you at Liege when my lord was in England, or were you with him all the time he was in England?

Lyd. My lords, I was with him all the time he was in England, and was never absent from him all that compass of time, but when he sent me into England from Liege.

L. H. S. Then he was at Liege himself?

Lyd. Yes, my lords.

L. H. S. Was that in the year 1673?

Lyd. Yes, my lords, I was then in England. But, my lords, I can give you a whole account, for my lord and I never made any journies, but I put them down.

L. H. S. You say you can give a particular account of the whole year 1673, even to the compass of four days in that year at most.

Lyd. No, my lord, I do not say so; but I say I can give an account of the whole time I have been with him within four months.

L. H. S. Were any of these four months within the year 1673?

Lyd. No: I was with him all the year 1673.

L. H. S. Will you take it upon you to say, That every day in 1673 you were with my lord?

Lyd. Every day, my lords.

L. H. S. Every week?

Lyd. Yes, I do not think but that I was. My lord did me the honour to make me as it were his companion.

Serj. Maynard. No, you do yourself the honour to make yourself his companion; he made you his servant.

L. H. S. Come, where are your notes you pretend to speak by? your Diary, or your Journal? Let us hear a whole account of the year 1673; for you come to testify us if you could give an account of every day.

Lyd. I did not think any question of this nature would come on the stage; there is my lord's steward can give a very good account of this by his account-books, which are all ready to be produced: he can tell where my lord was, by laying out such and such monies. And it is an hard thing to give a testimony after so many years, of a thing that we thought not would ever be a question.

L. H. S. Let us see your notes.

Lyd. My lords, I will read it to your lordships.

L. H. S. When was this written?

Lyd. I took this out of another book.

L. H. S. When?

Lyd. Lately, since Mr. Turberville's Narrative came out.

Sir W. Jones. Oh, I desire that may be observed.

L. Staff. If your lordships please, I desire that he may bring his books, Oh, Oh! will not condemn me, but law and justice: I am not to be run down with Oh, Oh! or what such impudent villains as these say.

L. H. S. Read what you have there.

Lyd. From Liege we set forth to Paris, January 1, 1672, where we staid three weeks, and arrived thence at London, January 24; there we staid till May 1673, and from thence we went to Liege again in June, and from Liege we set forth to London in August, and returned October the 3d, 1673.

L. H. S. Were you all the while between August and October in London?

Lyd. I am morally certain, that I did not go from my lord all that time.

L. H. S. Where were you after October?

Lyd. Which October, if your lordship please?

L. H. S. October, 1673.

Lyd. At Liege; for we returned to Liege at October the 3d, and then after this my lord sent me into England. I left him at Liege, and from thence I set out for England; and in January I returned to Liege, which was the greatest part of time that I was ever absent from him.

L. H. S. And was he at Liege, are you sure, all that time from October to January?

Lyd. Yes, except he flew: for I sent letters by the foreign post, and received letters by the foreign post every week. And his account-books will speak it.

Sir W. Jones. My lords, we desire to ask him one question, (since he can give so exact an account) whether my lord Castlemaine was in England, 1672; and how much of that year?

Lyd. Yes.

Sir W. Jones. How many months of the year 1672, was he in England?

Lyd. I read it before. We arrived from Liege to London, January 24th, 1672, and staid at London till May, 1673.

L. H. S. But where was my lord all the year 1672?

Lyd. Pray, my lords, do you mean New-Style or Old Style?

L. H. S. When I speak of his being at London, I mean the stile of the country.

Sir W. Jones. Then, under favour, he speaks of the latter part of the year: I desire to know, whether my lord, for all the former part of the year was in England?

L. H. S. Where was my lord in December 1672, and in November before that, and in all the year up backwards?

Lyd. My lords, I have told you the whole year.

L. H. S. But where was my lord from January 1671, to January 1672?

Lyd. In 1671, June the 19th, New-Style, we came to London, and returned in September to Liege; from Liege we set forth to Paris,

January 1, 1672; and arrived at London, January 24.

L. H. S. He runs past the time.

Sir W. Jones. My lords, we ask him a plain question, but he does not answer it; he slips over the time that we desire your lordships to ask him about.

L. Staff. I beseech your lordships that it may be made plain, that there may nothing be said afterwards that it was not plain.

Lyd. Sir, do you propose any thing to me, and I will answer it.

Sir W. Jones. Answer not us, answer my lords.

Lyd. I desire any body may peruse my notes, if they please.

L. H. S. Pray, Sir, answer the question, which in very short terms is this, where my lord Castlemain was all the whole year 1672?

Lyd. Well, my lords, I will; I can but read it over again. From Liege we set forth to Paris, January 1, 1672.

L. H. S. Are you not a rare fellow now!

Lyd. My lords, I understand it according to the stile of that country when I am there, and of this place when I am here.

L. H. S. Answer me according to our stile.

Lyd. This that I have written here, in the book out of which I took it, hath been written ever since that time; and I did not think I should ever be called to account about it.

L. H. S. Begin January the 1st, 1671.

Lyd. We went from Liege to Paris, where we staid about a week, or such a time, and we arrived at London January the 24th, that is the Old-Style, and staid at London till May the 8th, 1673.

L. H. S. That is impossible, for you escape a year and an half together.

Lyd. My lord was here in England in Jan.

L. H. S. You begin very gravely with January, *Stilo veteri*, that you came from Liege; and so January the 24th, *Stilo veteri*, you came to London.

Lyd. When I speak of any stile, I understand it according to the stile of the country.

L. H. S. But in your account, what is become of all the time from January, 1671, to January, 1672; say and swear, if you can, where my lord was all that time.

Lyd. He must be in London.

L. H. S. Can you take it upon your oath, that my lord was in London from January 1671, O. S. to May 1673, O. S.?

Lyd. I cannot know how to count better than I have done.

L. Staff. Mr. Turberville says, my lord Castlemaine was in 1673 at Powis-Castle; I beseech your lordships this man may be asked, and that without any interruption, where my lord was that year.

Sir W. Jones. With your lordships favour I must desire your lordships to ask Mr. Turberville whether he did say positively the year 1673; for if my ears and my notes do not fail me, he said, as he remembered; and that is the reason why we ask about the year 1672.

Mr. Tur. My lords, I do not say positively, nor cannot, which year it was.

Lyd. My lords, I do stand upon it, that he was in London January, 1672, and went away May 1673.

L. H. S. What becomes of the mean time, between January, 1671, and May 1673?

Lyd. My lords, I explain myself as well as I can.

L. H. S. My Lord Stafford, will you call any more witnesses?

L. Staff. Yes, my lord.

L. H. S. Call them then.

Earl of Shaftesbury. My Lord High Steward, I desire my lord Stafford may be asked how many witnesses my lord hath more, for it now grows late.

L. H. S. My lord, I desire to know how many witnesses you have more?

L. Staff. Three or four; I cannot tell well how many.

Lords. Adjourn, adjourn.

L. H. S. Is it your lordships pleasure that we do adjourn?

Lords. Ay, ay.

L. H. S. Then this House is adjourned into the parliament-chamber.

Then the Lords returned in their former order to their House, and the Commons went back to their House.

Mr. Speaker resumed the chair, and a Message from the Lords was sent by sir Timothy Baldwin and sir Samuel Clarke.

Mr. Speaker; The Lords have sent us to acquaint this House, that they have ordered the prisoner, William viscount Stafford, to be brought again to his trial at the bar in Westminster-Hall, to-morrow morning at ten o'clock.

THE FOURTH DAY.

Friday, December 3, 1680.

About the hour of ten in the morning the Lords adjourned into Westminster-hall and returned in their former order into the court there erected; and Mr. Speaker having left the chair the Commons were seated as before mentioned.

The court being sat, Proclamation for silence was made, and the lieutenant of the Tower commanded to bring his prisoner to the bar; which being done the Lord-High-Steward spake to the prisoner as followeth.

L. H. S. My lord Stafford, your lordship's defence took up yesterday. All the day was employed in hearing your lordship's witnesses to impeach the credit of the testimony that hath been given against you. Your lordship hath excepted against Dugdale, because you were not at Tixall, as he says you were, neither the latter end of August, nor the beginning of September, till the 12th; and when you were there, you never sent for him to your chamber, but your man upon his own desire, brought him: And when he came there, the business was to desire you to get leave that he might go to the race; and there was no opportunity of private discourse, because your men were

in the room all the while; that Dugdale hath often said he knew nothing of the Plot; that he swore falsely, when he said he told of the letter about the death of sir Edmundbury Godfrey before it was known he was killed, and when he said that Hobson told him presently after the almoner went over, which was three years before Hobson came to my lord Aston's service. Your lordship hath likewise objected, that he hath corrupted persons to swear falsely against you and others, as Robinson the upholterer against your lordship, Morrall the barber against sir James Symonds, and Holt the blacksmith to swear that one Moor carried away Evers. Your lordship hath endeavoured to discredit Oates, by his saying he knew nothing of any other persons that were concerned in the Plot, and after accusing the queen. Your lordship hath impeached the credit of Turberville, by proving that you came home by Diep, and not by Calais, as he says you did; that you had never the gout while you were in France, nor, as your page says, for these seven years; that my lord Castlemaine was not at my lord Powis's in the year 1673, and there you left off. This I take is the sum of what your lordship says; if I do you any wrong, your lordship will put me in mind of it.

L. Staff. I thank your lordship, you have done it with great equity and truth.

L. H. S. Then go on.

L. Staff. The next witness that I call is one John Porter. (Who stood up.)

L. H. S. What is your name?

Witness. John Porter.

L. H. S. What profession are you of?

Porter. A butler.

L. H. S. To whom?

Porter. To my lord Powis.

L. Staff. My lords, I desire your lordships would ask him what Mr. Turberville said about the Plot.

L. H. S. I will ask him all the questions your lordship desires I should ask him.

Mr. Foley. We desire to know what religion he is of.

L. Staff. I desire your lordship would ask him that question, and not the managers.

L. H. S. They will tell me their questions, my lord, and I will ask them.

L. Staff. They ask him, my lords, and not you.

L. H. S. What religion are you of?

Porter. A church-of England man, my Lords.

Serj. Maynard. The popish church of England, I believe.

L. Staff. Pray my lords, let not this be; when my witness says he is of the church of England, they cry he is of the popish church of England.

Serj. Maynard. Pray, good my lord, we are silent when you ask him proper questions, and make no remarks; we do not speak it to the court; we may say what we will among ourselves, I hope.

L. Staff. I may ask impertinent questions, be-

cause I do not understand so well as these gentlemen. But I pray they may not deal thus with me.

L. H. S. My lord, you shall ask what questions you please.

L. Staff. Pray ask him what Mr. Turberville said to him about the knowledge of the Plot.

L. H. S. What did Turberville say to you about his knowing of the Plot?

Porter. About a year since, when I served my lord Powis as butler there, he was used to come and see me; it was not at my lord's house, but he sent for me to a victualling house—

L. H. S. That was last year?

Porter. Yes.

L. H. S. What time of the year?

Porter. It was about twelve months ago, I cannot say positively the time.

L. H. S. Was it in winter or summer?

Porter. He hath been both, I can't be positive which; I believe he hath been there forty times.

L. H. S. In the year 1680 or 1679?

Porter. In the year 1679.

L. H. S. What did he say?

Porter. He came there and asked me how my lord Powis did; and said, he was extremely troubled that he was in that affliction, for he did verily believe, that neither he nor the rest of the lords were in the Plot; and the witnesses that swore against him, he believed were perjured, and could not believe any thing of it.

L. H. S. Have you any more to say?

Porter. Yes, my lords: I told him, if there were such a thing as a Plot, he having been beyond sea, must certainly know of it. He told me, as he hoped for salvation, he knew nothing of it, neither directly, nor indirectly, against the king's sacred person, nor the subversion of the government. And he further said, Although I am a little low at present, and my friends will not look upon me, yet I hope God Almighty will never leave me so much, as to let me swear against innocent persons, and forswear and damn myself.

L. H. S. Where was this said to you?

Porter. At the Ship alehouse in Lincoln's-Inn-Fields one time, another time at the King's-Head Tavern in the Strand, and another time at the Golden-Ball in the Strand.

L. H. S. Was any body by, besides yourself?

Porter. Not at that time; but there is a gentleman in court, that can testify that he said such things at other times.

L. H. S. What say you to this, Turberville?

Mr. Tur. I say it is all false: But if your lordships please, I will tell you what I said once, I did conceive my lord Powis was the least concerned of any, I thought; and I hoped it would prove so. I can take all the oaths in the world, I said no more.

L. H. S. What else do you know?

Porter. Only such things as these he hath often said.

Earl of Shaftesbury. Pray, my lords, ask him how came Turberville to talk of witnesses about the Plot?

L. H. S. Upon what occasion came Turberville to talk of these matters?

Porter. It was only voluntary of himself; it was speaking of my lord Powis, and the rest of the Lords in the Tower.

E. of Shaft. My lords, I mean of his own being a witness.

L. H. S. How came Turberville to say, he hoped God Almighty would never forsake him so far, as to let him swear against innocent persons? He was never called to be a witness.

Porter. But, my lord, some of his friends did say they were fearful of him, in regard he was reduced to poverty; his friends were fearful.

L. H. S. Who were fearful?

Porter. His brother and sister, Mr. Turberville and his wife.

L. H. S. Did he take notice to you that they were afraid he would come in?

Porter. Yes, Mr. Turberville did tell me himself, that they heard he would come in.

L. H. S. Have you said all that you have to say?

Porter. My lords, that is all I have to say.

L. H. S. Then call another, my lord.

L. Staff. Where is Mr. Yalden? (Who stood up.)

L. H. S. What is your name?

Witness. Yalden.

L. H. S. Your christian name?

Yalden. John.

L. H. S. What is your profession?

Yalden. A barrister at law.

L. H. S. How long have you been called to the bar?

Yalden. I was called to the bar last Trinity-Term was twelve months.

L. H. S. What house are you of?

Yalden. Grays-Inn.

L. H. S. Are you a practiser?

Yalden. Yes, my lords.

L. H. S. What religion are you of?

Yalden. Of the Church of England.

L. H. S. Well, what can you say?

Yalden. I am summoned to appear by order of this House; and I desire to know of my lord what he is pleased to examine me about.

L. Staff. What Mr. Turberville hath said in his hearing about the Plot?

L. H. S. What discourse hath passed between you and Turberville about the Plot?

Yalden. My lords, in February or March last I was walking in Grays-Inn walks with Mr. Turberville, and Mr. Powell, and he dined with me a day or two after; and there Mr. Turberville and I were talking of the distractions of the times, how trade was ruined, how the whole kingdom was out of order; and he, a little touched at some things, cried out, 'God damn me, now there is no trade good, but that of a discoverer; but the devil take the duke of York, Monmouth, Plot, and all, for I know nothing of it.'

L. H. S. That is odd, that he should say it was a good trade to be a discoverer, and at the same time say, he knew nothing of the Plot.

Yalden. This I understood to be his mean-

ing; he cursed himself and them, because he knew nothing of the Plot to discover; for he would have got money by it, (as I understood) as well as others.

Tur. My lords, Mr. Yalden did declare yesterday, he was summoned in by my lord Stafford the last night, and that he had nothing to say but what was by hear-say.

Yalden. My lord, I do declare here what I say is true. And yesterday Mr. Powell gave me a caution to take heed what I did, and swore by God, it would else be the worse for me.

L. H. S. Who did?

Yalden. Mr. Powell.

L. H. S. Who is that?

Yalden. Mr. Turberville's friend. And I said, I do not appear here as a voluntary evidence, but by an order of the House of Lords. I do not know what weight my evidence may have; for I can say nothing but what I heard him say, and so perhaps it will be taken but for an hear-say.

Tur. You said you know nothing but by hear-say.

L. H. S. Will you ask him any questions, gentlemen?

Manag. No, my lords.

L. Staff. My lords, I shall not trouble your lordships with any more witnesses as to these points; I have here a copy of the warrant for the yacht to go to Dieppe: And if there be any question whether I did come over from Dieppe at Christmas 1675, if you please the book may be searched.

L. H. S. My lord, it is all lost, for I hear not one word.

L. Staff. I say, my lords, if it be fit to trouble your lordships with it, I can prove that I did come over in the yacht from Dieppe at Christmas 1675; here is the copy of the warrant for it to go for me. And whether you will have it proved that I did come over thence, I submit to you.

L. H. S. I suppose that is fully proved, that you did come by Dieppe.

Manag. We do not deny it.

L. H. S. You do not stand upon it, gentlemen, do you?

Manag. No, no, my lords.

L. H. S. It is admitted to you, my lord.

L. Staff. My lords, when I went from your lordships bar last night, I had no thoughts of examining any witnesses, but what I had already done: But, my lords, since I was here, there hath something happened, about which I desire Dr. Oates may be called again (I shall give you my reason why I move it afterward) upon something I heard yesternight.

L. H. S. Call Dr. Oates again. (Who appeared and stood up.)

L. H. S. My lord, What does your lordship call him for?

L. Staff. He did say, that he being a minister of the Church of England, did seemingly go over to the Church of Rome, or some such words; I desire he may answer that first.

L. H. S. What say you?

Oates. Yes, I did say I did but seemingly go over.

L. Staff. I desire to know, whether he was really a papist, or did but pretend.

Oates. I did only pretend; I was not really one, I declare it.

L. H. S. What do you make of that?

L. Staff. I desire to know how long Dr. Oates was in Spain.

Oates. My lords, I came into Spain in May, and I came home again in November.

L. H. S. That is six months.

L. Staff. He is called Dr. Oates: I beseech your lordships to ask him, whether he were a doctor made at the Universities here or abroad.

Oates. My Lords, if your lordships please, any matter that is before your lordships, I will answer to it; but I hope your lordships will not call me to account for all the actions of my life; whatever evidence is before your lordships I will justify.

L. H. S. The doctor hath never taken it upon his oath, that he was a doctor, and why do you ask it?

L. Staff. He is called a doctor, and I would know whether he did never declare upon his oath, that he took the degree at Salamanca?

Oates. My Lords, I am not ashamed of any thing I have said or done; I own what is entered as my oath before your lordships, and am ready to answer it; but I am not bound to say what does not at all concern this business.

L. Staff. I say, my Lords, it is entered upon your lordships books, that he did swear at the council, he was at Madrid with Don John of Austria; I would know of him whether he did so.

Oates. My Lords, I would have my lord to propose the question to the Court of Peers.

L. H. S. Have you sworn any thing of Don John of Austria?

Oates. My Lords, I refer myself to the Council-book.

L. Staff. I beseech your lordships, I may have that book.

L. H. S. I believe it is in the Narrative; turn to the Journal, you have that mentioned there. [To which the Clerk turned, but it could not be found.]

L. H. S. If you will not acknowledge it, we must stay till the book be brought.

Oates. My Lords, if your lordships please, I will repeat, as well as I can, what was said at the council table; but I had rather the council book were fetched, because I am upon my oath: But, my Lords, I always thought the council book is no record upon any man.

L. Staff. I desire it may be produced, or he own that he said so.

L. H. S. What you said at the council table, you said upon your oath, and it is lawful to lay it before you.

Oates. But if your lordships please, as to what was said at the council table, if my lord will bring any one *vira voce* to swear what was said by me there, that will make something.

L. H. S. That may be material, as he says, that your lordship should bring somebody to swear he said so, for the clerks may mistake him.

L. Staff. If your lordship please that the book may be sent for, I will make it out.

Sir W. Jones. It could not be read if it were here.

L. H. S. If the clerks will swear what is in the books, it may.

Sir W. Jones. But whether the clerks will take that upon them or no, may be a question.

L. H. S. Go on in the mean time.

L. Staff. I cannot conclude with him without it.

L. H. S. Where is the council-book? For the clerks inform me it is not in their custody; but the gentlemen of the House of Commons have been attended with the book, and other papers relating to it.

L. Staff. In the mean time, give me leave to say something, though perhaps it may be nothing to the purpose: Mr. Yalden was just now going down, and Turberville threatened to lay him by the heels.

L. H. S. If he did so, it is a misdemeanor, and he must be punished for it. Call Yalden and Turberville.

L. H. S. Mr. Turberville, have you dared or threatened Yalden the witness, to lay him by the heels?

Tur. I did not speak any such words to him; Mr. Dugdale was just by me all the while.

L. Staff. I tell you but what he said, and what I can prove by witness; pray call Yalden.

Tur. This gentleman, captain Scudamore, stood by me too.

L. H. S. But I ask you upon this misdemeanor, whether you threatened Yalden to lay him by the heels?

Tur. My Lords, I stood by Mr. Dugdale till he was gone down.

L. H. S. How could he lay him by the heels? By what authority could he do it?

Tur. I did not speak such a word, upon my oath.

L. Staff. Ask Yalden; I am told he did.

L. H. S. I am afraid you are misinformed, my lord; for he could not do it, it is not in his power.

L. Staff. He threatened he would gaol him; but if you will not examine it, I submit to you.

Oates. My Lords, Yalden, it seems, calls us a pack of rogues, that give evidence for the king; and here are witnesses of it. (Yalden stood up.)

L. H. S. Yalden, were you threatened by Turberville?

Yalden. Yes, I will tell you how I was threatened, my lords: Mr. Turberville pulled me by the arm, when I had given my evidence, and asked me if I knew him, and bid me take care.

L. H. S. Do you call that threatening?

Yalden. My Lords, I did not make this complaint, nor did I desire it should be made; but speaking this in the room, somebody carried it to my lord.

Tur. My lords, now he hath done, let me speak, I pray: Mr. Yalden did say in the hearing of captain Scudamore, who is here, he had got a great many clients here; but you, says he, have got nothing but a pack of rogues.

Yalden. That is a mistake.

L. H. S. This is fine work. But, gentlemen, will you call captain Scudamore now, or will you stay till afterwards?

Sir F. Winnington. My Lords, Mr. Turberville desires it may be now, and we do also desire it upon this occasion; Captain Scudamore is a man of quality, and will give you a true account. We did not think to have interposed in my lord Stafford's evidence; but he having impeached our witnesses of a misdemeanor, we conceive it fittest to clear it at this time.

Then Captain Scudamore was sworn.

L. H. S. Mr. Scudamore, what are you called for? Can you say any thing that happened between Turberville and Yalden?

Capt. Scudamore. The gentleman that is here, that said he was one of Gray's-Inn, I do not know his name—

L. H. S. It is Yalden.

Scudamore. I heard a gentleman ask him if he came there to get clients, and he said, I know nothing among you but roguery.

L. Staff. Whereabouts did this gentleman stand?

Scudamore. In the passage.

Tur. Here are five or six more that heard him say so.

Yalden. That which I said, was this, That I might come hither for practice, but I did not come hither for roguery.

L. H. S. My lord Stafford, until such time as the council-book comes, which may be sent for, will your lordship proceed to something else?

L. Wharton. My lord Steward, I humbly conceive, that it was resolved in the Lords House, the day before yesterday, that no book should be sent for out of the court; and it was done upon the judgment of all the judges of England.

Yalden. My Lords, they will not permit me to go down.

L. H. S. There is a strange quarrel between your witnesses, and an affectation of complaining one of another: Let Mr. Yalden go down.

Sir W. Jones. My Lords, I would only acquaint your lordships, that the council-book, that my lord does make mention of, was in the hands of our clerk, we did not know of it when it was first discoursed of; but now understanding that here it is, we desire it may be delivered in to any body that hath occasion for it.

L. H. S. Hand it in. (Which was done).

VOL. VII.

L. H. S. What day does your lordship speak of?

L. Staff. The 28th, 29th, or 30th of September.

Clerk. Then this is not the book, for this is for January.

L. Staff. My Lords, is it your lordships pleasure I may have pen, ink, and paper allowed me?

L. H. S. Yes, yes; give my lord pen, ink, and paper. (Which they did).

Then the Lord High Steward looked upon the Council-book.

L. H. S. My lord Stafford, in this council-book, as far as we can inform ourselves by the table of it, there is nothing at all of it, it must be the council-book in September.

Sir W. Jones. We have no other book but that.

L. H. S. Why did not your lordship send all this while to the council-table for any thing that was material, but give the court the trouble to be interrupted upon your enquiries?

L. Staff. My Lords, you may do what you please, I did not know any such thing would have needed to be urged, I have proof enough without the book: The use I should have made of it, is this, I do appeal to some of your lordships (you that were of the council) I do appeal to which of you that were by, whether Dr. Oates did not say at the council-table, he had been at Madrid, he went from Valladolid to Madrid, and there did preach something at the Jesuits College at Madrid (what it was I cannot tell) when Don John of Austria was by.

L. H. S. If any of my lords of the council do remember it, they may testify.

L. Privy-Seal. My lords, I shall tell your lordships as much as I remember of it: Dr. Oates was examined about his journey into Spain, and (amongst the rest) some question happened to be asked, whether he had seen Don John of Austria; he said he had seen one that was called so; that he knew him not, but he was pointed to one that they said was Don John of Austria: that I heard.

L. Staff. My lord, I thank you.

L. H. S. You hear what is said, Dr. Oates.

Oates. My lords, suppose I did say so, I think there is no crime in it.

L. H. S. It is not objected against you as a crime, but as a mistake in your oath, there was no such man there.

L. Privy-Seal. My lords, I would not be misunderstood in the evidence I give; I did not say that Oates said he knew him, but that he knew him not, and only was told such a man was he.

Oates. It was made apparent that I did not know him, because I mistook his person.

L. Staff. I do stand upon it, That upon his oath (and I have reason to believe he said so, because I am so informed) he said it was Don John of Austria.

L. Privy-Seal. No my lord, Dr. Oates said,

4 Z

he was a tall lean man, and it seems he was a little fat man.

L. Staff. If any man would shew him a man to counterfeit Don John of Austria, he would not shew him a lean man for a fat.

L. H. S. Go on, my lord.

L. Staff. I shall now put your lordships in mind that he swore, but my memory is bad, and my eyes much worse, that he saw me receive a commission, and it seems he saw what it was too: Now it is strange, that amongst so many commissions that were given, none should be extant; I desire him to shew the commission he saw me receive.

L. H. S. Would your lordship have him shew the commission which he saw you receive?

L. Staff. I do not believe he can shew my commission; for I am sure there was none: I desire him to shew any one of my letters he talks of. He says, he came over, feigning to be a Papist, when he was not, and that they shewed him presently all my letters; and now he is come to discover the Plot, I ask him, did he keep any one of my letters?

L. H. S. Have you any of my lord's letters by you?

Oates. My lords, I could not keep any letters sent to the fathers; I had a sight of them, but none of them to my particular use.

L. Staff. Does he know my hand? Did he ever see it in his life?

Oates. Yes, I do know his hand, I believe I have a letter of my lord's by me, but not about me, it is of no concern; I am sure I have one of my lord Arundel's.

L. Staff. But he says he hath a letter of mine; let him shew one of my letters.

Oates. He writes a mixed hand, I think it is but an indifferent one.

L. Staff. So many commissions, and so many letters as are spoken of, and not one to be found or produced!

L. H. S. Can you send for the letter?

Oates. My lords, I am not certain of that.

L. H. S. Where did you see my lord write?

Oates. At Fenwick's, my lords, when I carried the letter to the post.

L. Staff. How often hath he seen me at Fenwick's?

Oates. My lords, not above twice, if twice.

L. Staff. My lords, I cannot say I did not see him there; but I can say I don't know the place, nor that ever I was there.

Oates. My lords, will his lordship say I never saw him at Dr. Perrot's?

L. Staff. Who?

Oates. My lord Stafford.

L. Staff. Where did he live?

Oates. In Duke-street, going into Lincoln's-Inn-Fields: He is the arch-priest of the seculars, that is, the principal of the secular clergy: and he hath the care of the English college for the sending of scholars to the college. Mr. Fisher, my lord Stafford, and Dr. Perrot were discoursing together about sending his son thither, and Mr. Fisher would have one sent with him, that was Dr. Perrot's man.

L. Staff. I do profess before God, I was never at Dr. Perrot's in my whole life!

L. H. S. Did not you send your son abroad?

L. Staff. No, my lords, not I.

L. H. S. Had he a servant at Dr. Perrot's to attend him?

Oates. No, my lords, not that I know of, I cannot say he had not.

L. Staff. I tell you positively, as I am a Christian, my lords, I did not send my son to Lisbon, he went against my will. I told him I had an aversion to it, but said, I will not lay my commands on you not to go; but he would go, I could not help it: I told him, Do you mean to go into the college? He would not tell me.

L. H. S. Pray, my lord, does not your lordship know Dr. Perrot?

L. Staff. Yes, my lords, I do.

L. H. S. Were you never with him at his house in Duke-street?

L. Staff. No, my lords, never in my life; nor saw that Fisher he speaks of, ever in my life.

Oates. My lord, it is against the rules of that house, that any be admitted of that house (if their parents be Catholics) without consent of their parents.

L. Staff. If he be admitted there, I know it not.

Oates. He lives there.

L. Staff. But I protest before God, my lords, I asked him that question, Will you go to the college? No, says he, I will go to lie at the bishop's house: But as for Dr. Perrot, I never was at his lodgings in my life, and I never knew where he lay; he hath been with me sometimes, but I knew not that he was a doctor. But, my lords, I desire I may not be run down by these fellows, who do not speak a word true, not one tittle. My lords, I have witnesses in whose house Fenwick lay. Call them, and ask them if ever they knew me there in their lives.

L. H. S. What kind of man was he?

Oates. My lords, he is an ancient man, he wears his own hair.

L. H. S. Is he a tall man or a low man?

Oates. A lusty man.

L. Staff. Truly, my lords, I never was at his house since I was born.

Oates. My lords, I'll tell your lordships a circumstance; That summer Don Francisco de Melos, the ambassador here, was sick, and I think he died of the sickness, Dr. Perrot was his father confessor; I was waiting for Dr. Perrot some time, for he promised to meet me at his lodgings, and this gentleman, the prisoner at the bar, did come in there.

L. Staff. Where?

Oates. Into Dr. Perrot's lodging. Dr. Perrot had a kinsman there that waited on him; and when my lord he came in, he was in haste to speak with Dr. Perrot, and he offered me half a crown to fetch Dr. Perrot to him, and I made him this reply, I was no porter.

L. Staff. If ever I saw this man in my life

since I was born, or heard of his name till the Plot; then I will confess myself guilty of all. Indeed, when first I heard of the Plot (they said) there was one Mr. Oates discovered it, but I did not know any such man.

Oates. I went by another name, and went in another habit; and my lord Stafford, though his memory be bad, yet it can't be so bad, but that he must remember something of me.

L. Staff. I don't remember you, I never saw your face in my life.

L. H. S. You would have given him half a crown to have fetched Dr. Perrot.

L. Staff. It seems then at that time, I took him for a poor fellow, that I should offer him a shilling or two.

Oates. It is like I was, but I refused your half-crown, and told you I was no porter.

L. Staff. My lords, I shall give you evidence that he was a poor fellow, since he gives me occasion to prove it; nay, that he was so poor, that he was brought down to accept of 6d. I will prove it by the party that gave it, now he puts me upon it. But, my lords, this Dr. Oates says he saw some of my letters, I desire to know what was in them; did he take any notes? What was in them?

L. H. S. Did you, when you had a sight of these letters at St. Omers, take any notes out of them?

Oates. What notes I did take, if I did take any, I have not now in being; but I do not remember that I did take any. Besides, my lords, we could keep no papers by us, but what we communicated to our superiors, and therefore it was still their care to look after their papers themselves; and in that circumstance of time, if they had known I had taken notes out of their papers, it would have been prejudicial to me, and endangered my life.

Ld. Staff. My Lords, I do infer this one thing further, upon what this Dr. Oates tells you; he did seemingly profess himself of the catholic religion, and I do stand upon it, that hereupon he is no competent witness in that which he offers against me: For he being of the church of England, (for I think he professes himself so, and wears that habit) I say, any man let him be who he will in the world, church of England man or other, that shall pretend himself to be a papist, for what end soever it may be that he so pretends, and dissembles with God Almighty, which he must do to a great height in receiving the sacrament, which is by your lordships and the House of Commons declared to be gross idolatry, is not easily to be esteemed a witness. I appeal to your lordships, to the House of Commons, and every body, whether such a fellow, that will abhor his religion, let him do it for any ends in the world, be a man to be credited; and especially engaging in such a way, to such an height, in that which his conscience tells him is idolatrous, is not a perjured fellow, and no competent witness? No christian, but a devil, and a witness for the devil. And I appeal to

the whole christian world, if a protestant of the church of England should come to be a servant to a catholic, and pretend himself a papist, and were not so, whether he were fit to be countenanced: As it did once happen to me at Brussels, before the king came in, one that was a protestant came to be my footman, and he professed himself afterwards to be a catholic; and when I found he was not so, I told him what a villain he was, and he ought to be punished severely. I detest such dissembling with God; and I think by the laws of God and man, and the holy scriptures, such a perjured man is no witness. I am sorry I have troubled your lordships so long; but now if you please to give me leave, my Lords, I will give you my reasons why I called him now: When I did remember how he had dissembled with God Almighty, as I said before, I did consider with myself, sure this Dr. Oates must have been, ever since he hath returned, of a very severe, strict, and sober life; for a man that hath so dissembled with God, ought to shew himself of an exemplary, peaceful, pious, civil life, to testify the truth and reality of his repentance. But last night when I came home, and was sitting by the fire-side, extremely weary, my daughter here comes in, and asks me if I had heard what had passed between Dr. Oates and the lieutenant; how he called the lieutenant rascal and gaoler: Sure then, said I to myself, this is not the quiet, civil, sober man, that such-a-one that hath lived as he hath done, ought to be. And this is the reason I speak of it, that he should call him vile names, gaoler and rascal; it did not become a man of his coat to do it: whether it was so or no, I do not know; but Mr. Lieutenant, I suppose, will satisfy your lordship.

L. H. S. What did Oates say to you, Mr. Lieutenant.

Lieutenant. My Lords, I was desiring Mr. Oates, that he would keep the people down, because there was a great crowd; and seeing a great many people come in, he told me they were witnesses that were to come in: Said I, I believe half of these are not witnesses; and the door opening so often, I could keep this place in no order; so I desired they would stand away that were not witnesses; Why, says he, you are but a gaoler. Then I told him, if it were not for his coat, and I were out of this place, I would break his head. Then he called me rascal.

L. Staff. My Lord Steward, I desire to know whether this be a witness fit to be believed against any man.

L. H. S. Mr. Oates, this does not become you; it is very ill manners in you.

Oates. My Lords, the lieutenant of the Tower hath the law; and I refer myself to the law, if I have done him any wrong.

Serj. Maynard. It did not become Mr. Lieutenant of the Tower to tell him he would break his head.

Lieutenant. Why? If a man out of the court, or in any other habit, should tell me I was a

gaoler, I think I should not deserve to be the king's lieutenant, if I did not break his head.

Serj. Maynard. Pray tell the court so. But yet, under favour, you ought not to threaten him for a word to break his head.

Ld. Staff. My Lords, I do say this to your lordships, a man that hath dissembled with God Almighty in so high a nature, as he acknowledges himself to have done, ought to be a man of a very severe life afterwards, and not so passionate and cholerick, as it seems this fellow is.

L. H. S. Will your lordship proceed?

Ld. Staff. For this man truly I shall say no more; I think I have said enough to make him appear a person not fit to be believed. I would only ask Stephen Dugdale a question, if you please, it is but a little, I will not hold you long. I only ask, and if he deny it I will prove it, whether he was not a prisoner at Stafford for debt, when he made the first affidavit?

L. H. S. Were you a prisoner for debt at Stafford, when you made your first affidavit?

Dugd. In the serjeant's hands I was, my Lords.

Ld. Staff. For a very great debt, my Lords, some hundreds of pounds, and he was a fellow not worth a groat. And, my Lords, Dr. Oates says I offered him half-a-crown, and he refused it: I call Ellen Rigby to prove he was so poor he begged for six-pence.

Oates. I will save my lord the trouble of proving any such thing. My lord Stafford says I was a poor man, and had not six-pence in my pocket: I can make it appear to the House of Lords, that some time since I came in upon this discovery, I have not had two-pence in my pocket, and sometimes I have not had 6 pence; but a man's poverty is no objection against his honesty.

Ld. Staff. Where is Ellen Rigby, to prove whether she did not give him six-pence? But then, my Lords, pray ask him, whether he did not swear at a former trial, he had spent 6 or 700*l.* more than he got?

L. H. S. Did you say at a former trial, you were 5 or 600*l.* out of purse?

Oates. My Lords, I will satisfy this house what I said: What folks write after me, I am not to justify. But, my Lords, I had a friend of mine presented me with 100*l.* I name not his name, but if that be questioned, he is a Peer of this House, and will justify it: I had 100*l.* for my Narrative; I had 100*l.* for taking some Jesuits, which is 300*l.* I had for some other copies that I printed, a matter of 50 or 60*l.* And now I can make it appear, that as to those sums which I received in gross, I have spent them all, and more, in this service: for I have none of the money now by me.

L. Staff. He makes out but 350*l.* and he swore he was out 700*l.* but he does not swear one true tittle, nor is any whit to be believed.

Oates. If you expect I should prove it, I can prove it now.

Managers. Be quiet, Dr. Oates, we will do you right anon.

L. Staff. My lords, I do not know for the present that I have any thing else to trouble your lordships with. I remember these gentlemen, when I asked them if they had any more evidence to give in, said, no, unless I should give them some occasion: and now I desire your lordships, if they bring any new evidence, that I may have time to answer to it.

L. H. S. God forbid but you should have liberty to answer any objection.

Sir W. Jones. My lords, before we go about to sum up our evidence, we shall have occasion to call some witnesses, and that will be to fortify what our witnesses have said, to discover what kind of witnesses have been made use of against them, and to falsify what my lord's witnesses have said in some particulars. These will be the three heads for which we desire to call witnesses. And because, my lords, we will not trouble you with making one entire Narration of what they can say, or to what purpose we call them before they come, desire the favour that we may acquaint your lordships with it, still as we call them; for that we think will be the way more clearly to be understood. My lords, we shall begin to make good by other witnesses, some things said by Mr. Dugdale (for he was our first witness, and therefore in order of time we will begin with him.) My lords, the prisoner at the bar was pleased to object—

L. Staff. My lords, I would not interrupt him; but I would ask whether they are more than two heads that he proceeds upon to fortify their own evidence, and to falsify mine.

Sir W. Jones. My lords, I think we may comprehend all under those two heads. But, my lords, you observe, one great matter my lord did insist upon yesterday, was this, that he, it is true, hath seen Mr. Dugdale at my lord Aston's; (though by the way I must say this, my lord at the first did not seem to know him)—

L. Staff. I did not know him in his perriwig.

L. H. S. Do not interrupt them, my lord, for they must have the same liberty that you had, to go on without interruption.

Sir W. Jones. We must have the same freedom my lord had. I will do his lordship that right, he did afterwards recollect himself and say, his perriwig had made that alteration in him, that he did not know him. But my lord was also pleased to say yesterday, that though he did not know him, yet he looked upon him as so mean and inconsiderable a fellow, that he did purposely avoid all discourse with him; and that sometimes when he was adry at my lord Aston's, he would not speak to him to help him, nor to call one to help him to drink. My lord was pleased yesterday also to deny that ever he had any converse with him, but only that one time, when indeed Mr. Dugdale did desire to make use of my lord, that by his interposition he might have leave to go to the foot-race. My lords, your lordships very well perceive we are now going about to prove a matter mostly arising within my lord Aston's

family; and what witnesses we shall have from thence, your lordships may easily imagine will not be very favourable to us: And if we have not many to this point, your lordships will take into consideration, that those who can give the fullest proof here, must be those of the family, and the religion of the family. But, my lords, we will call one or two that I believe will give you satisfaction that my lord, the prisoner, was no such stranger to Mr. Dugdale; that they have been seen together, and alone together: and that is the first thing we desire to call witnesses to. Call Mr. Ansell and William Hanson.

Mr. Hanson was sworn.

L. H. S. Where do you live? whose servant are you?

Hanson. At Wilnal in Staffordshire.

L. H. S. What do you ask him?

Sir W. Jones. I desire, if you be satisfied where he lives, that he will tell you, whether he hath been at my lord Aston's, and seen my lord Stafford there?

L. H. S. Have you seen my lord Stafford at my lord Aston's?

Hanson. Yes, my lords.

L. H. S. When?

Hanson. A little above two years ago.

L. Staff. Be pleased he may name the time positively.

Sir W. Jones. My lord Stafford is not so well versed in prosecutions of this nature, as to know that he is not to interrupt us while we are examining our witnesses.

L. H. S. My lord, your lordship received no interruption, nor must give none.

Sir W. Jones. My lords, we desire this witness may be asked, whether or no he hath seen Mr. Dugdale and my lord Stafford at any time together?

L. H. S. What say you?

Hanson. Yes, my lords.

L. H. S. When, and where?

Hanson. I cannot justly tell the time.

L. H. S. Can you tell the place?

Hanson. Yes, at my lord Aston's.

L. H. S. Whereabouts?

Hanson. In my lord Aston's parlour.

L. H. S. And were they alone?

Hanson. Mr. Dugdale fetched me to my lord Stafford.

L. H. S. And was nobody in the parlour when Dugdale fetched you to my lord?

Hanson. No, my lords, I think there was not.

L. Staff. He thinks there was not.

Hanson. There was not to my best remembrance.

Sir W. Jones. My lords, will you be pleased to ask him the occasion why Dugdale fetched him to him?

Hanson. My lord had a mind to have a boy.

L. H. S. What was the occasion that Dugdale did come to fetch you to my lord Stafford in the parlour?

Hanson. To bring the boy, my lords, young

Hawkins. Mr. Dugdale fetched me and the boy to him; it was a boy that my lord would have to live with him.

Sir W. Jones. Can you tell what time of the year it was? whether winter or summer, as near as you can?

L. H. S. Ay, what time of the year was it?

Hanson. Indeed, my lords, I cannot tell.

Sir W. Jones. I desire to ask him, whether when he went away he left them together?

L. H. S. Did you leave them together?

Hans. To my best remembrance, my lords, I did. The boy and I went away together, and we left them at my lord Aston's parlour door.

Sir W. Jones. Call James Ansell.

L. H. S. Nay, if you have done with him, my lord Stafford may ask him any question.

L. Staff. My lords, I shall tell you how this thing is: There was a report that this Hawkins was a very good running footboy: and this was spoken of at my lord Aston's at dinner or supper, I don't know which, nay several times about that time; It was when my lord of Danby was treasurer, and his son, my lord Dunblain, was much for foot matches, and I had a mind to have a footboy to make a match with him; and I believe Dugdale at dinner or supper did say that he was a good running lad, and I might desire to see him, and Dugdale did bring him to me I believe into my lord Aston's parlour; but there was at least six or seven in the room besides.

L. H. S. My lord Stafford, was this at that time when your lordship was at Tixall the 12th of September?

L. Staff. Pray, my lords, I desire to ask him that question; I would know what year it was.

L. H. S. He says it was above two years ago.

L. Staff. I profess I believe it was one or two years before I was taxed with this Plot. I did never think I should be questioned about this, or I could easily have brought witnesses, that were by at that time. It is true, he did come to me; but pray what time of day was it?

Hans. In the morning, I think it was.

L. Staff. I profess to God, it was after supper; as I hope to be saved, it was as we were going to bed, to the best of my remembrance.

Sir W. Jones. Did you come into the parlour after supper?

Hans. I am not sure what time it was.

Sir W. Jones. If his lordship please to ask him any more questions; if not, we will call another. James Ansell. (Who was sworn.)

L. H. S. What is your name?

Witness. James Ansell.

L. H. S. Where do you live?

Ansell. At Heywood in Staffordshire.

L. H. S. Did you live with my lord Aston?

Ansell. I have been at my lord's house at Tixall.

L. H. S. But you are not of the family?

Ansell. No.

L. H. S. How far is Heywood from Tixall?

Ansell. A mile.

L. H. S. Have you seen my lord Stafford at Tixall?

Ansell. I have seen a man they called my lord Stafford. I did not know him, but as they told me.

L. H. S. Did you ever see Dugdale in the company of a man they called my lord Stafford?

Ansell. Two years ago I was at Tixall, and there I saw one, that they said was my lord Stafford, walking with Mr. Dugdale, whom I did know.

L. H. S. Where was it?

Ansell. In the court at Tixall, walking together.

L. H. S. Were they alone? Was there no body else in company?

Ansell. None that I saw; there might be more in company, but I saw no more.

Sir W. Jones. Pray my lords, ask how long ago this was.

Ansell. About a summer was two years.

Sir W. Jones. If his lordship will ask him any questions now we have done, he may; otherwise we will call another.

L. Staff. My lords, I have recollected myself as well as I can in so short a time, and all I can say, is, some of my servants were by, I suppose; and I do assure your lordships, the other business was above three years ago: so the fellow does not know what he does say.

L. H. S. Will you ask him any questions?

L. Staff. Pray ask him how long he saw me in the court with Dugdale.

L. H. S. How long was it?

Ansell. I cannot tell: I did but walk through the court. I came to speak with Mr. Dugdale, and he was with my lord.

L. Staff. Did he hear us discourse, any word we said?

Ansell. No, I did not.

Sir W. Jones. My lords, if you please, before *Ansell* go away, we would ask him a question to another point; and that is, for what reason Dugdale was secured, whether he went away for debt or no.

L. H. S. Do you know wherefore Dugdale was secured, or why he went from my lord Aston's?

Ansell. I can't tell why he went away; whether for fear of the Plot, or no I can't tell.

Sir W. Jones. What discourse was between you and Dugdale about it?

Ansell. Where? There was a discourse at Stafford when he was there.

Sir W. Jones. But before he went away?

Ansell. I came to my lord Aston's one day, and told Mr. Dugdale I heard say he was concerned in the Plot; for I told him I was amongst some people, and they say you are concerned in the Plot. And this was about a fortnight after the news was hot in our country.

L. H. S. What said he?

Ansell. He laughed at it, and said, God blast him if he knew any thing of it.

L. Staff. So he denied it then?

Sir W. Jones. Pray, sir, at that time did he say he knew any thing about my lord Aston, and why my lord Aston did use him ill.

[Then my lord Stafford objected Mr. Dug-

dale was too near the witness, and desired he might go down: and it was ordered accordingly.]

Sir F. Win. My lords, we would ask this man what he does know of Dugdale concealing himself after he had heard of the discourse about the Plot.

Ansell. I know not that, my lords; he was fearful of coming in company; what his discourse was, I do not know.

Sir W. Jones. My lords, now, if it please your lordships, we will go to another particular. Your lordships will please to remember, that yesterday there were two witnesses called by my lord Stafford, that is, Sambidge and Philips. Sambidge was the old gentleman that was deaf, and a little passionate too, because he was once summoned to Litchfield court; Mr. Philips was the minister of Tixall; And both these did testify, That whereas Mr. Dugdale had sworn as a former trial, that he did give notice before them of the death of Sir Edmundbury Godfrey upon Monday, which, as I take it, was the 14th of October, there was no such notice given in their presence. Mr. Dugdale did affirm they were by, and that he gave notice before them and others. This was made use of by my lord to invalidate the testimony of Mr. Dugdale, that he should go and affirm at a former trial, that he did give notice of the death of sir Edmundbury Godfrey within two days after he was killed, before any one knew of it; and Dugdale must needs know it from the Jesuits; and both of these gentlemen being now in court, do deny that they heard of it at that time. My lords, we shall prove to you here, that he did give notice of it at that time, and that they were both present: For Mr. Sambidge, it is not so strange he should not observe it; he was very deaf, and he could hardly hear yesterday; and as he was deaf, so he was very passionate. As for Mr. Philips, I cannot say that as to him, but perhaps he cannot at that distance of time remember; but we will prove by undeniable witnesses, the notice was given that Monday, and that these persons were by when it was given.

Sir F. Win. This witness we use to another purpose besides this; but we will ask him only to this now.

L. Staff. I desire the witnesses may stand by themselves.

L. H. S. Let them take care that there be but one witness at a time, and that nobody approach them while they are giving their testimony.

Sir W. Jones. We did not make the like desire as to my lord's witnesses.

L. Staff. In troth, you might with all my heart, if you would.

Sir W. Jones. It may be so; but we did not fear them so much. Swear William Goldsmith. (Which was done)

Sir W. Jones. I would begin with James Ansell. Who appeared, and stood up again.)

Sir F. Win. If your lordships please, we would ask him what he knows of a discourse about the

justice of peace's death; to tell the time, and what it was that was said? We only ask general questions.

L. H. S. What discourse did you hear of the murder of a justice of peace, and when?

Ansell. My lords, I heard it at Tixall.

L. H. S. When did you hear it first?

Ansell. The 14th of October.

L. H. S. Who did you hear it from?

Ansell. From Mr. Dugdale.

L. H. S. The letter was dated the 12th. Where did you hear of it?

Ansell. It was at one Eld's house, an ale-house in Tixall.

L. H. S. Where?

Ansell. At an ale-house hard by my lord's.

L. H. S. Who was by?

Ansell. When that was spoken, there was I, and William Hanson, and Mr. Sambidge, and Mr. Philips.

L. H. S. Did Dugdale speak with them at that time?

Ansell. Yes, he was with them at that time, but he spoke with me at the parlour; for he sent for me into the parlour.

L. H. S. Then at the same time he spake it to you, and they were in the house?

Ansell. Yes, he came from them to me into the parlour, and went to them again.

Sir W. Jones. My lords, I hear him speak to the day of the month; if you please to ask him if he can tell what day of the week it was?

Ansell. It was on a Monday.

L. H. S. That is right, the letter was dated on Saturday the 12th of October.

Sir F. Win. I would ask him, whether afterwards he came into the room where Mr. Philips the parson was?

Ansell. Yes.

Sir F. Win. Was there any discourse, after you came in, about the death of a justice of peace?

Ansell. I cannot tell that.

L. H. S. Will you please to ask him any thing, my lord?

L. Staff. Indeed, my lords, he says nothing concerning me; therefore I say only this, I desire to know, if he can tell, what time of the day it was?

Ansell. It was the forenoon.

Sir W. Jones. Then call William Hanson again. (Who appeared.)

Sir F. Win. We call him to the same question. Do you declare to my lords what you know of Mr. Dugdale's acquainting you with the death of a justice of peace, and when it was.

Hanson. I heard Mr. Dugdale say at old Eld's house at Tixall, There was a justice of peace murdered that lived at Westminster.

L. H. S. When did he tell you so?

Hanson. The day that I went to run the race, the 13th of October.

Sir F. Win. Can you remember what day of the week it was?

Hanson. It was on Monday.

L. H. S. Was it the forenoon or afternoon?

Hanson. The forenoon.

L. H. S. What company was in the house when he told you of it?

Hans. Old Mr. Sambidge, and Mr. Philips the parson of Tixall.

L. H. S. Were they in the house at that time?

Hans. Yes.

L. H. S. Were they by when the discourse was?

Hans. Mr. Sambidge was going to drink a bottle of ale, as he said, at my lord's Bowling-Green; and for a while he sits down, and presently Mr. Philips comes in and sits down, and Mr. Dugdale came out of the parlour into the room where we were come: said I, What news? Said he, they say there is a Justice of Peace murdered at Westminster.

Sir F. Win. Was Philips in the room?

Hans. Yes, he hath forgot it, but he was there.

L. H. S. Did Philips hear it?

Hans. He might have heard it if he would.

L. H. S. Had you any discourse with Philips about this since?

Hans. No, my lords.

Sir F. Win. He is positive both as to the day of the month, and as to the week, and that both of them were present.

Sir W. Jones. My lords, we shall prove to you now, that the post which comes out of London on Saturday, comes to this place on Monday morning; and those which come out of Tuesday come there on Thursday morning; and the post which goes out of London on Thursday, comes to this place on Saturday morning.

L. Staff. He says the post comes such and such days, I own it, and in the morning too.

Sir W. Jones. Then I go on, my Lords, to another point, which will be a farther confirmation of the matter. For, my lords, we will prove to you, and that by men of quality, that the noise of the murder was in that country, the Wednesday and Thursday following the murder. Your lordships please to observe, sir E. Godfrey was killed the 12th of October; he was found the Thursday following, which was (as I take it) the 16th or 17th of October. We will prove now, that the noise and knowledge of the murder was in the country about Tixall, before he was found here near London. Now we only bring this as a confirmation of this matter, that it was revealed at the ale-house, and so it went about the country. And for this we call Edward Birch, esq. and John Turton, esq.

Sir F. Win. Before we examine them, I would state the time. Sir E. Godfrey was missing on Saturday, which was the 12th of October; his murder was not discovered till Thursday. We call these persons to a double purpose; the one to fortify what our witnesses have said; and the other to shew, that this man was dispatched by these men's confederates, because they knew it so soon; which could not have been, but that they were in the conspiracy themselves.

L. Staff. I desire only that he may say whether he means me among the rest?

Sir F. Win. My lord, I will do you no wrong, I speak of those at Tixall.

(Then Mr. Birch was sworn.)

L. H. S. When did you hear of the death of sir E. Godfrey, Mr. Birch?

Birch. My lords, I did not hear any thing of the death of sir E. Godfrey, till the Saturday post; but, I presume, that which these gentlemen call me for, is this: I did hear before Thursday, I think Tuesday was the first day, that there was a Justice of Peace of Middlesex killed, and it was thought the papists murdered him; and this on Tuesday and Wednesday was all over the country, that is, Tuesday after his death. For I will tell your lordships how I came to take notice of it; for hearing such a report in the country, I did not so much as take notice of it; but being at the King's-bench bar, at the Trial of Green, Berry, and Hill, for the murder of sir E. Godfrey, I found upon the evidence, that the body was not found till the Thursday after he was killed; that made me recollect myself as to what I had heard in the country: and as I stood at the bar, I told several gentlemen that I did perfectly remember before Thursday it was discoursed of in the country by several gentlemen where I lived.

Sir W. Jones. Call John Turton, esq.

Sir F. Win. Some of my lords here I perceive desire he should be asked a more particular question.

L. H. S. I desire to ask him this: you heard of it, you say, on Tuesday, that a Justice of Peace of Middlesex was killed; I desire to know who you heard it from?

Birch. Truly, my lords, I cannot tell: for I will tell your lordships, I have some certain days that I constantly appoint to be at home in, when people come about business to me. Among these people, several came that asked me what news I had from London. I told them, I had received a letter or two by the post, and I shewed them those letters, there was little or nothing in them. Thereupon they asked me, if I did not hear of a Justice of Middlesex that was killed? No, said I: how come you to hear it? Says one, I come through Cank, (which is within half a mile of mine own house,) and as I came through, there came a person from Heywood, that said, it is all the news about Tixall and Heywood, and that part of the country. And this was said to me in my own house.

Sir F. Win. How far is Heywood from Tixall?

Birch. About a mile.

Sir F. Win. Now, my lords, I would ask Mr. Turton to the same business.

(Mr. Turton was sworn.)

L. H. S. Mr. Turton, pray hear: When did you first hear in Staffordshire of the death of a Justice of Peace of Middlesex?

Turton. My lords, there are two races in that country, at a place near Lichfield, and they are about the middle of October; the one that year was the 15th, the other the 18th.

The one the Tuesday, and the other the Friday. I was at both of them: and one of the days, which I cannot be positive in, there was one Mr. Whitehall, a Justice of Peace in Staffordshire, called me from the company, and desired me to speak with me by myself. Said he, do you hear any news? No, said I. Do you hear nothing, said he, of a Justice of Peace that is murdered? (I then had not heard of sir E. Godfrey's being missing) No. Says he, don't you hear he is murdered? Do you know him? Yes, said I: how do you hear it? Says he, it is a report about us. But I did not then believe it: but the next post-day, which was Monday, I did hear it. It was either Tuesday or Friday, one of those days.

Sir W. Jones. If it were either one or the other, it is as strange, and the evidence as strong; for his body was not found till Thursday.

Sir F. Win. And will your lordships please to observe, that by that time the report had got the name of Godfrey too, when at the same time we in London did not know what was become of him.

Turton. He asked me if I knew sir E. Godfrey: said he, I hear he was an active Justice of the Peace against the papists; and he made this inference, we had need have a care what we do, for we shall be all sacrificed.

Sir W. Jones. My lords, will your lordships be pleased to observe, that yesterday there were some witnesses called to disparage Mr. Dugdale; and the first man, as I can remember, was a very substantial gentleman, called Mr. Robinson: I think he was not able to give an account of his employment, but he was a gentleman, that lived upon his money; I remember those were his words. My lords, we shall call (without telling you what they will say) some witnesses to prove the condition of this gentleman, what reputation he is of, and what is his conversation. And we first call my lady Gerard.

L. Staff. My lords, pray give me leave to say one word——But it is no great matter, it is not worth the speaking.

L. H. S. What can you say, my lord?

L. Staff. It was only a thought of my own, not worth troubling your lordships with.

(Then the Lady Gerard appeared, and was sworn.)

L. H. S. Does your ladyship know one William Robinson?

Lady Gerard. No, my lords.

Sir W. Jones. He hath several names, we desire he may be called.

L. H. S. Call Robinson the upholsterer.

(He was called, but appeared not.)

Sir W. Jones. I perceive we mistake one lady for another. We desire Mr. Booth, a member of the House of Commons, may be sworn. (Which was done in his place.)

L. H. S. My lord Stafford, send for Robinson your witness.

L. Staff. I believe he is here; but if he be not, one that belongs to me I have sent to see for him: whether he be a good or bad witness, I do not know personally.

Sir W. Jones. Mr. Booth knows him very well, he saw him yesterday, and so we may venture to ask him the question.

L. H. S. Did you see Robinson the witness yesterday?

Mr. Booth. Yes, my lords, I did.

L. H. S. Do you know him?

Mr. Booth. My lords, I do know him very well, though I have not seen him often: for indeed, my lords, he behaved himself so the first time that I saw him, that I believe I shall never forget him. My lords, I am better acquainted with his character than his person, though I know the man very well; and truly the first time that ever I was in his company, he gave me no encouragement ever to desire it again; for, if you please, I will tell you how I came to know him. He told your lordships that he came into Cheshire at a cocking; it was at that time that I saw him: for upon the Sunday after the cocking, I was invited to a neighbour's, about two miles from home. We were set down to dinner, and we had not sat long, but this man comes into the room where we were; there was an empty place at the lower end of the table, and he sits him down, and began a discourse to ridicule the Lord's day, in such a manner as I never heard the like. And the rest of his discourse was full of a great deal of contempt of God Almighty, and all that was sacred. All his discourse at dinner was very profane. It was not in mine own house; and because it was not taken notice of by the master of the house, and he coming under the protection of a young gentleman, I did not what else I should; for I should have made him hold his tongue, or have used it to better purpose: the whole of his discourse was so atheistical and profane, that I never heard the like in my life. When dinner was done, he used a great many enticements to draw the company into play, by asking what would they say, if they should see such and such things to be done? And at length he pulls out a great many dice out of his pocket, and behaves himself in that manner, as people do that would draw in others to play; and they that had better skill in it than I, said that they were all false. When I saw this, I desired him to leave our room, or to forbear; for, said I, if this be the entertainment of the day, I must leave the company: then they commanded him to desist. This is all that I do know of my own knowledge: but I shall acquaint you what I believe; for I have heard it from very considerable persons, whom I dare credit: for the man run much in my mind, because I never saw so ill a man in my life. Coming home, I was speaking to some of my family; says I, Yonder I met with the strangest fellow that I ever saw in my days, he is fitter to be hanged than any thing else. Oh, Sir, said they, there is such a fellow hath

cheated I know not how many at the town where the cocking was. The next day, I think it was, or shortly after, I had occasion to go to that town; and many people came and complained to me of his cheats, to a very great degree. They asked me, what they should do? Said I, You have nothing to do but indict him for a cheat. Why, said they, will you take no course with him? Said I, What course can I take? I am turned out of the commission of the peace, else I know enough to bind him to his good behaviour. After this, I had occasion to go into Lancashire, and there I found he was better known than trusted. There were very loud complaints against him, and some would have given 20*l.* to meet with him. I heard afterwards he went into Staffordshire, and he changed his name wherever he went; but he soon discovered himself, and all thereabouts he goes for a notorious cheat. This is all I can say of him.

L. Staff. My lords, Be pleased to give me leave to say one word. I assure you, if I had thought this man had been such a fellow as now he proves, I would not have brought him before you. I never knew what he was in my life, nor heard of his name till Saturday last.

L. H. S. It may be so, my lord: but your lordship must take notice, this is the man that gave the most important evidence, that Dugdale should corrupt him to swear against you for money.

L. Staff. Give me leave to observe upon that, my lords, That if Dugdale knew him to be a cheating fellow, he might think him the liker to take money to forswear himself.

Sir W. Jones. My lords, We shall not reply now, but observe anon, how this cheating fellow comes to swear for my lord at this time. But we desire an honourable peer of this House may give some account of him, and that is the noble lord the earl of Macclesfield; I think he may be known to your lordships.

(Then the Earl of Macclesfield stood up.)

L. H. S. Pardon me, my good lord, my lord must be sworn.*

Earl of Macc. Before I am sworn, I would know of your lordships, whether I should be sworn or no? for your lordship shall not make me be sworn, unless my lords say I should.

L. H. S. I should not offer it, if there were any colour of doubt in it.

(Then my Lord was sworn.)

E. of Macc. My lords, I have nothing to say against this man, but what he said to me, and before a justice of peace too; for I did

* See the Note to vol. 2, p. 772. The Countess of Shrewsbury's Case. So in Lord Macclesfield's Case, A. D. 1725, *post.* the Bishop of Oxford gave his testimony upon oath, as did Lord Stormont in the Case of Mr. Hastings, A. D. 1789, *post.* See also Blackst. Comm. B. 1. Ch. 12. (vol. 1, p. 402, 15th ed.) and Mr. Christian's Note on the passage.

take this man when he had run away from my lord Gerard. He had cheated many of his servants. I caught him on the way running to play his tricks somewhere else, and I intercepted him; but though I was a justice of peace there, yet because it was in a manner my own case, I would not commit him, till I had carried him before another justice of peace. So the man comes up to me; says he, my lord, have you a mind to have your son-in-law bubbled? I have been only teaching him how to avoid being cheated; I acknowledge myself to be a cheat, and I would teach him to avoid them. I am going now into Staffordshire, and that was all I intended to his lordship: I am a rogue I confess. And upon this a justice of peace comes in, and while they were examining of him, we bid some that were by to search him, and they found in his pocket false dice; and truly the justice nor I did not know whether they were true or false. Says he, You do not know what to do with these, but I do. This is all I can say; but in all the three counties of Staffordshire, Cheshire, and Lancashire, there are several men that I see here, that know his life better than I do; for it is his common practice. And I believe, my lords, the judges must know him; for it was his common practice at all assizes and great meetings to play these pranks.

Sir W. Jones. My lords, we will not trouble your lordships any further as to Robinson; if he were here, perhaps my lady would know him; but having two such witnesses, I think we need not trouble ourselves nor you any more about him.

L. H. S. Have you done with my lady Gerard?

Sir W. Jones. Yes, and we beg her pardon for this trouble. My lords, your lordships will be pleased to remember, there was one Holt was produced as a witness by my lord Stafford; and your lordship, when you look on your notes, will remember he testified to this purpose: that Dugdale sent an horse for him to Stafford town; which horse brought him to the Star Inn, and there Dugdale did offer him 40*l.* to swear, That one Mr. Moor carried away Evers the jesuit. My lord, we will call some witnesses to this Mr. Holt; you will find him to be something a-kin to Mr. Robinson, and, as we suppose, of nothing a better reputation than he. The witnesses will give you an account of his pranks. Call Sampson Rawlins, and Lander. (Rawlins stood up, and was sworn.)

L. H. S. What is your name?

Witness. Sampson Rawlins.

L. H. S. What you ask him?

Sir W. Jones. We desire to ask him if he knows Samuel Holt the black-smith?

L. H. S. Do you know Holt?

Rawlins. Yes.

Sir F. Win. Acquaint my lords what reputation he is of, where he lives, and what he is.

Rawl. He is counted to be a very lewd, loose fellow.

L. H. S. Why so?

Sir W. Jones. What hath he done?

Rawl. He is counted a drunken, lewd fellow.

Sir W. Jones. Is he of an ill reputation in the country where he lives?

Rawl. Yes, he is so.

L. H. S. For what?

Rawl. It is said in the town he keeps another man's wife.

Sir W. Jones. Is there any other fault he hath?

Rawl. He said there were none but rogues would take Mr. Dugdale's part; whereas I never knew any harm by Mr. Dugdale, and I have known him this 14 or 15 years: I dealt with him, I was a taylor to the family, and he ever paid me very honestly and well.

Sir W. Jones. Have you heard of Mr. Holt any other ill thing besides what you speak of?

Rawl. He broke open my lord Aston's wine-cellar, and stole several bottles of wine; wherefore my lord Aston bid Mr. Dugdale send him to the gaol: but he curried favour with Mr. Dugdale, and so kept in with him, that he afterwards begged for him of my lord to forgive him; and now he comes to evidence against Mr. Dugdale, that was his sure stedfast friend, and saved him from the gaol.

L. Staff. I would ask this witness a question—

Rawl. And because I took Mr. Dugdale's part, saying, he was an honest man (and he was so to me, and all others, as far as ever I heard) he met me, and would have murdered me.

L. H. S. When was this?

Rawl. Since last term, when I was up here, and likewise Sawyer took a pot, and would have donged my brains out.

Sir F. Win. My lords, I think this man was summoned as a witness, to attend at my lord Aston's trial. What occasion brought you to London at that time?

Rawl. I was subpoenaed up. And when I came home to my wife and children, they grossly abused me, and said I was a rogue, because I came up upon his majesty's service.

L. Staff. Pray, my lords, ask him whether Holt was my lord Aston's servant or no.

L. H. S. Was Holt a servant to my lord Aston?

Rawl. He was a smith hard by his gate, and he worked to the family.

L. H. S. Were you subpoenaed up to the trial of my lord Aston?

Rawl. Yes.

L. H. S. And it was for coming to that trial he offered to murder you?

Rawl. Yes, I have several witnesses of it. And by the blow that Thomas Sawyer gave me, for a good while I could not lay my head on the pillow.

Sir W. Jones. Call Thomas Lander. (But he did not appear, being gone away sick.)

Sir W. Jones. Because we would not lose your lordships time, seeing the man we call for is gone away sick, we will call a witness as to another of my lord's witnesses, John Morral. Call Thomas Thorne. (Who was sworn.)

Sir F. Win. My lords, if that other man come by-and-by, we hope your lordships will give us leave to ask him a question to the point which we are now gone over. But my lord Stafford did produce one John Morral, a barber that lived at Ridgely, who said, that money was offered him to swear against sir James Symons, and Mr. Howard, and others. We call this witness to give your lordships an account what this Morral is, and how he hath behaved himself in this business.

Sir W. Jones. What do you say about John Morral? Do you know him?—Thorne. Yes.

L. H. S. What do you know of him?

Thorne. I know he is a man that used to come often to my lord Aston's to Tixall; to trim him, he is a poor fellow that walks up and down the country, and hath little or nothing to live on.

L. H. S. Is he poor and needy?

Thorne. Yes, he hath been sued for money, and I have been contributory to keep him out of prison.

Sir W. Jones. I ask you in general, is he of a good or bad reputation?

Thorne. Indifferent.

Sir W. Jones. It is modestly said. My lords, your lordships have heard what kind of witnesses have been brought against us: For two of them, you have had particular matters; for a third, our witness speaks modestly, that he is a man of indifferent reputation. But now, my lords, we must prove what endeavours have been used to get other witnesses against our witnesses; and for that, I desire to call one Simon Wright, to tell your lordships what hath been offered him to swear against Dugdale, and by whom. (Wright stood up and was sworn.)

Mr. Foley. My lords, we desire this witness would give your lordships some account what endeavours have been used by offers of money, or otherwise, to make him swear against Dugdale, and by whom.

L. H. S. Hath any body endeavoured to persuade you to swear against Dugdale?

Wright. Yes, my lords.

L. H. S. Tell your whole story, who it was, and what was offered you?

Wright. The first time I was employed was presently after the murder of sir E. Godfrey; and it was by one Mr. Plessington, that was in custody about that matter: And he sent me one Sunday morning to the marquis of Winchester's, to desire him to consider what a charge he lay at; and my lord did send him word, he could not expect to be discharged so soon. The Tuesday after he was discharged; and afterwards coming unto me, I told him I was glad he had so good friends to get out so soon. He told me, were I in the same condition, I should have as good, or better. Whereupon Mr. Plessington and I were as good friends as any about the town. I was his barber, and barber to Mr. Dugdale, and we were all great cronies. And Plessington told me, if I could find a way to take off his evidence, or destroy him, I should have 700*l*. I went to enquire

out where I might have a security for the money, and Mr. Reeves, an apothecary in Chancery-Lane, did proffer me his note, and so did Mr. Dewy the scrivener: but I did not, nor had the money. And several times, particularly at the trial of Mrs. Price and Mr. Tasborough, they would have had me sworn quite blank, That he would have hired me to have sworn against them. And afterwards they would have had me own I was forsworn, and they would get me a pardon.

L. H. S. What had you sworn?

Wright. What I heard Mrs. Price say at the Horse-shoe, in Chancery-Lane, as to the blasting of Dugdale, as may be seen in the trial.

L. H. S. Who offered you that 700*l*?

Wright. My lord Bellasis's steward.

L. H. S. What is his name?

Wright. Plessington.

Sir F. Win. My lords, I think he says he was to swear against Mr. Dugdale; I desire he would explain himself more particularly, and tell who it was that offered the money to swear against Dugdale.

Wright. Mr. Plessington, my lords. And since the trial of Mrs. Price, they did persuade me to write a paper for the blasting the reputation of Dugdale, and to shake his credit by it. And that they carried to Mr. Drayton and sir James Symons, and they being satisfied, would have me write again to those gentlemen, and they framed a letter for me to write. And thereupon Mr. Longmore (I know the gentleman if I see him again) told me that sir James Symons was better able to perform, than Dugdale was to promise; and if I would stand by it, I should be a happy man.

L. H. S. What had you said in that paper?

Wright. I had said according as they directed me, That Mr. Dugdale would have given me money to swear against sir James Symons and Mr. Gerard.

L. H. S. Did you swear that?

Wright. No, I did not, but I was to have done it.

L. H. S. How came it to pass you did not agree with them?

Wright. My lords, I have had 4*l*. in hand, and that I had by reason poverty came upon me. And my lord Bellasis's steward came and lay with me, and spent 20*s*. upon me; but finding that I was not absolutely true to them, nor like to go through, they distrusted me: and I borrowed an horse of capt. Chetwin, and got down into the country, where I have been since July last, till I was fetched up by a messenger to come and give evidence for the king. And there I received a letter from my lord Aston's agent, That if I would call at Stafford, and come up with my lord's witnesses, they would bear my charges up to London. I have the letter in my pocket.

L. Staff. If it please you, he may shew the letter. (Which he did.)

Clerk. "This for Simon Wright, a barber, at ———. Deliver with care. Subscribed, Your loving friend Abnett."

' Simon Wright; I have just now received a letter from the lord Stafford, wherein my lord mentioned Wright to be one of his witnesses, and desired me forthwith to give Wright notice, that if possible, he should be at London on the Saturday night next, his trial being to be on the Tuesday after; therefore if he pleased to come to him, he should give him money to bear his charges up, and he should come up with my lord's witnesses. *ABNETT.* (This is the substance of the letter as it was taken.)

Sir W. Jones. I presume your lordships will be pleased to take notice, he was intended a witness for my lord; and it was supposed then that he was able to say something, but he was not produced by my lord yesterday.

L. Staff. Pray, my lords, give me leave, as to this witness; I desire, if you please, I may have time to prove something against this man till to-morrow: I have enough against him.

Serj. Maynard. You will find another witness, I suppose, by that time.

L. Staff. No, I will not find him, I have him already; I have enough against this fellow.

L. H. S. You shall have time to say what you will, my lord.

Serj. Maynard. I would my lord would name his witness.

L. Staff. I will name him to you, since you ask it, it is Dodd; he knows what I mean well enough.

Wright. I do not know him, my lord, I assure you.

Sir W. Jones. My Lords, we will go on now to another matter. My lord Stafford was pleased to object, that Mr. Dugdale did talk much of letters and proceedings, but was able to shew none of them. My lords, we will give an account how that comes about: Mr. Dugdale, as in part hath been proved already, was apprehensive of being accused for the plot: nay, I think we shall prove he was afraid he had been in the proclamation against those traitors and jesuits that were fled. We shall prove, that Mr. Dugdale, to secure himself, and his then friends (for he was not then come over to make any discovery) did burn a great many letters and papers that did relate to those proceedings, and did not leave any thing remaining; hoping thereby to prevent a discovery. We will call witnesses that were by when it was done, and I think that will be some answer to this objection. Call Elizabeth Eld, and Anne Eld.

Elizabeth Eld sworn.

Sir F. Win. My Lords, if your lordships please, we would ask her this general question; What she knows of Mr. Dugdale's burning a great many letters and papers, at what place, and about what time?

Elizabeth Eld. I cannot possibly say to the time; I burnt some writings for him when he went away, he desired me to burn them, he did not tell me what writings they were. He said, the times were troublesome, and if he should be

sick upon the road where he was going he would not have all his papers seen; but he desired me to burn them. And I took and burnt them all but one book; and my sister asked if that book should be burnt: he said, No, there was nothing of treason in it. I asked him if there were any thing of treason in the others; and he said, Do you think there was?

Sir W. Jones. How long was this before he went away?

Eliz. Eld. That morning when he went away.

Sir W. Jones. How many papers were there?

Eliz. Eld. I cannot say how many.

Sir W. Jones. I do not ask you the number, but the quantity, was there a bushel?

E. Eld. I cannot say; they were rolled up, and put in his pockets and his breeches.

L. H. S. Were they parchments or papers?

E. Eld. They were papers.

L. H. S. Were they letters?

E. Eld. I did not see what they were, but they were wrapt up together; they might be the accounts of the house, for what I know.

Sir F. Win. But she says, as I take it, that Mr. Dugdale said there was treason in them.

E. Eld. No, he said, Did I think there was? He said it was no matter for burning that little book, there was no treason in that; and when I asked him if there was any in the others, he said, Do you think there was?

L. H. S. Was it one or two bundles?

E. Eld. There were several bundles, they were not tied up, but taken in handfuls and thrown into the fire.

Mr. Foley. If my lord Stafford will ask her no question, we will call up another.

E. Eld. My Lords, I did see Mr. Dugdale take a glass of cyder, and I heard him say, and wish it might be his damnation, and he might sink in the place where he stood, if he knew any thing of the plot.

Sir W. Jones. I pray what religion are you of? I don't ask you to disparage you.

E. Eld. A Roman Catholic.

L. H. S. When was it that he said that?

E. Eld. When he was in Staffordshire.

Anne Eld was then sworn.

Mr. Foley. Tell my lords what you know of any papers that were burnt by Mr. Dugdale, or by his direction, and at what time.

A. Eld. Mr. Dugdale came to my father's house over night, and the next morning (before he went away) he brought a great many papers he had in his breeches, and in his pockets, bundled together, and he desired us to burn them in the flame of a candle.

L. H. S. Why did he desire you to burn them?

A. Eld. He said, the times were troublesome, and being to travel, he was to go to divers places, and if he were taken, people would think him a plotter, having all those papers about him.

L. H. S. Did he burn the book at that time?

A. Eld. No.

L. H. S. Why not?

A. Eld. I found that book, and asked him, if that should be burnt; he said, No, lay that by, it might do good seven years hence, there is no treason in it. Says my sister to him, Is there any treason in the rest? Says he, Do you think there is? That was all.

Sir W. Jones. Not to trouble you longer, my Lords, upon this, your lordships will be pleased to remember, yesterday my lord Stafford was pleased to offer by way of evidence, as if Mr. Dugdale was a man of an ill reputation in these particulars, That he had defrauded my lord Aston, that he was a mean man, run in arrear to my lord; and that being in necessity, he became a fit instrument to give false evidence. We shall shew, That Mr. Dugdale was a man of estate; that both before, and since he came away from my lord Aston, he hath made it his business to desire my lord to come to account; that he hath pressed him, and that he does believe, and hath reason to believe that there is money coming from my lord Aston to him, and that a considerable sum. Now, my lords, if we shall make it appear, that he hath made it his business to come to account with my lord, I hope it will not be supposed that he is afraid of it, or so needy, or so mean. For this we call Michael Noble and Stephen Colledge.

Michael Noble sworn.

Sir John Trevor. What do you know of Mr. Dugdale, and my lord Aston?

Noble. My lords, I can say little or nothing as to Mr. Dugdale, for that I have never been acquainted with him, but since the plot, and he came to be an evidence; but Mr. Dugdale desired me to assist him as much as I could, to make up his accounts with my lord Aston. And we were twice at the Tower, one time we spoke with my lord with great difficulty; another time we could not see him. There were three books of account, two my lord would let us see, but the third, wherein all the discharges were, as Mr. Dugdale said, he would never let us see, that is all I can say.

(Then *Stephen Colledge** was sworn.)

L. H. S. What is your name?

Witness. Stephen Colledge.

Sir W. Jones. Declare to my lords what you know concerning Mr. Dugdale's pressing my lord Aston to account with him.

Mr. Colledge. In January last I went along with Mr. Dugdale, at his request, to the Tower, with one Mr. Noble a barrister of the Temple, and one Mr. Boson of Lyons-Inn, in order to the making up accounts between Mr. Dugdale and my lord Aston; for he told me he was going thither for that end. When we came thither, we met with one captain Hawley, who belongs to the lieutenant of the Tower, and we

desired him to go to my lord Aston, and tell him Mr. Dugdale was there, in order to make up his accounts with him. He went, and brings an answer back again, that my lord was not at leisure to speak with Mr. Dugdale then, nor none of us from him. And Mr. Hawley said he was then going up with the lords to nine pins. Mr. Dugdale said, he was very ill used, for he had been several times there before, and he could not be admitted to speak with him. He hath a little book, says he, (meaning my lord) wherein there is an account made up under his own hand, of almost two or three hundred pounds; which sum I cannot say, but one of them I am certain of, which he hath denied several times that he had it, (but I can prove that he hath it :) If he will be pleased to produce that book, we need not be a quarter of an hour in making up the account. He did speak of some other sums he had to place to account, but so much was made up already. But captain Hawley saying he would not speak with him, nor any of us from him, I did take the liberty to say to captain Hawley, that it was hard his lordship and his party should abuse Mr. Dugdale at that rate, to make him his debtor; for now I understand by what Mr. Dugdale said, my lord was his debtor: And said I, if I can persuade Mr. Dugdale, he shall publish his case, for the protestant interest suffered by it, that he should be made a debtor to my lord when he was not so. And I believe captain Hawley told my lord Aston what I did say; for when he came back again from my lord Aston, he said, my lord did acknowledge he had that book, and it was ready to be produced, but he would stay till a counsellor of his came out of the country, and till he had spoke with the lieutenant; for he would not speak with Mr. Dugdale unless the lieutenant were by, and in three or four days time he would send for him: But I never heard that he sent for him ever since. If it please your lordships, I have one thing more that I remember: There was a young man that belonged to my lord Aston's family, that heard Mr. Dugdale was at captain Hawley's chamber, and came to see him, and paid a very great respect to him, and would stand bare to him though Mr. Dugdale desired him to put on his hat several times. Some of us asked him, whether Mr. Dugdale was thought to be such a knave, when he lived with his lord, as they would have made him since: No, said he, Mr. Dugdale was as honest a gentleman as ever lived in our family, I remember my lord Aston's man said this to us then.

L. Staff. My lords, will you be pleased to give me leave; if I speak impertinently, I am under your correction; I conceive I shall have something to answer to this, but I would first know whether I may desire of your lordships, that I may have my lord Aston here to give an account of this matter.

Sir W. Jones. If he were here he could not be heard, being a person accused for the same offence.

* See the Trial of Stephen Colledge, A. D. 1681, *infra*.

L. H. S. My lord, he stands indicted for the same treason, and cannot be a witness.

L. Staff. I beg your pardon, my lords.

(*Nicholas Boson* was sworn.)

L. H. S. What is your name?

Witness. Nicholas Boson.

Sir W. Jones. Declare to my lords what you know concerning Mr. Dugdale's pressing my lord Aston to come to an account.

Boson. In January last, I met with Mr. Dugdale, and one Mr. Noble and one Mr. Colledge. And Mr. Dugdale desired us to go down with him to the Tower. He said he had an order of the council to pass his accounts with my lord Aston; and when we came there, we enquired for captain Hawley, and desired him that he would acquaint my lord Aston, that he was there to account with him. Captain Hawley went up to my lord Aston, and brought word back again, my lord was not at leisure, or would not speak with him, or to that effect; whereupon Mr. Dugdale said, it was very hard that he should be aspersed to owe my lord money, and he would not come to account with him. For my lord Aston had a book or books in his custody which he would stand by, and they would determine the business between them; that my lord Aston was almost two hundred pounds in his debt. And pray, says he, captain Hawley, do me the favour to go to my lord Aston again, and desire him that he will be pleased to produce that book or books. If I owe my lord any money, I am ready to pay him. And if he owe me any, I hope his lordship will do the like by me; as I am sure he does 200*l.* Captain Hawley went away, and brought this answer, that his lordship would send for him in some short time, as soon as a counsellor did come out of the country, whom he had entrusted with the books; and that was one Birch, as near as I remember.

Sir W. Jones. We have done with this witness. And because we desire to conclude as to Mr. Dugdale, we shall call some persons of quality as to his reputation, my lord having gone about to make him a man of no reputation.

Boson. I can speak too about the boy that came in.

Sir W. Jones. There is no need of that now: We shall trouble you no further, Sir. Your lordships will be pleased to observe, That Mr. Philips, the minister, that was one of my lord Stafford's witnesses, did say, Mr. Dugdale was a man of whom many spoke well, and some indifferently, and perhaps that is the case of most good men; for scarce any are so good that all speak well of them: But that many should speak well, and some indifferently of him, may be the lot of a very good man. We shall call some witnesses, and begin with Mr. Whitby a justice of the peace, that will tell you he hath known Mr. Dugdale long, and what reputation he is of.

Thomas Whitby, esq. sworn.

Sir John Trevor. My Lords, we desire your

lordships would be pleased to ask him what reputation and credit Mr. Dugdale was in, in my lord Aston's service.

Whitby. My Lords, I have known Mr. Dugdale to be a servant to my lord Aston this nine or ten years; he was steward to him, and there was no other person between my lord and him; he received my lord's rents and debts for him, exchanged his lands for him in forty places; I exchanged some land with my lord myself, and he was the man that did it. He was very hard for my lord's advantage, and did what he could for my lord's profit.

Sir John Trevor. What do you know more as to his dealing?

Mr. Whitby. He was a person that was next to my lord, and did rule and govern the rest of the family. All the servants were under him.

Sir John Trevor. Was he looked upon to be an honest man in his dealings?

Mr. Whitby. As to what I had to deal with him, he was an honest man, I never heard to the contrary. I have heard some tradesmen complain that he hath put them off without money, would not pay them what my lord owed them.

L. Staff. I desire that Mr. Whitby may be here when I shall have occasion to say something to him.

Sir W. Jones. That will be, I hope, by and by, for we have almost done. Call Mr. William Southall. (Who was sworn.)

L. H. S. What is your name.

Witness. William Southall.

Mr. Foley. Give my Lords an account how long you have known Dugdale, and what you know of him.

Southall. My Lords, I have known Mr. Stephen Dugdale about eight years.

Mr. Foley. How hath he behaved himself? What reputation hath he borne?

Mr. Southall. Truly he hath always had a good repute, not only with my lord's tenants but also with the workmen, and those people that had dependance on the family; and truly I never heard any ill report of him, but only what is spoken of now of late.

Sir F. Winnington. Were you very well acquainted with him?

Southall. Yes, but never had any business with him. Several discourses I have had with him about the popish religion.

Sir John Trevor. My Lords, I only observe this, This gentleman is coroner of the county, and hath a general knowledge of the county, and must know most men there.

Sir F. Winnington. You are a coroner of the county of Stafford, Sir, I think.

Southall. Yes, I am one of them.

Mr. Foley. What was he in my lord's house?

Southall. Bailiff, and a kind of governor, providing meat, and paying workmen; most of the things of the family went through his hands.

Sir F. Winnington. My Lords, This gentleman is a coroner of the county, and can speak materially to other particulars besides this of

Dugdale's reputation; for he was a person who was present when he made his first discovery of this plot, and was very instrumental in prevailing with him to do it. He will give your lordships an account of the whole business, and I would rather he himself should relate all the progress of it, than take upon me to recite any of the passages.

Mr. Southall. There was, the latter end of November (1678,) a report that Mr. Dugdale was gone away from my lord Aston's suddenly and strangely; and it was the common report in the country that he was in the plot, and was fled for it. In the beginning of December I went through a town called Great Heywood, a mile and a half from Tixall, where my lord Aston and Mr. Dugdale dwelt. I called at Mr. Thomas Whitby's house, the gentleman that was up here lately, and he was telling me, Dugdale was come again, and apprehended by the watch at Heywood upon suspicion. He told me further, he would make no confession of the plot, though he had been under examination before sir Walter Bagott, Mr. Kinnorsley, and I think he said sir Thomas Whitgrave. But he told me divers passages by which we both suspected he might be concerned and know of the plot. We thought so from the various reports and rumours we had heard in the country, and from those great grounds of suspicion that were given us. As I returned from Heywood, I resolved I would speak with Dugdale the first opportunity, for I had a strong persuasion I could prevail with him to make a discovery of the plot: But before I did speak with him, there was one Goldsmith my kinsman, had some difference fallen out between him and Mr. Ansell, and Mr. Dugdale, touching a deed, the deciding of which they had referred to Mr. Dugdale. And he desired me to go to Mr. Dugdale to Stafford with him; I was very glad of the opportunity. Ansell was to bring one Hanson, Mr. Goldsmith was to bring me, and Mr. Dugdale was to bring one Mr. Gerard, that was concerned in the pre-mortgage, that we might all have discourse together. I promised to meet them at the time appointed; and accordingly the 23d of December, two days before Christmas-day, I came to the place in Stafford, where Dugdale was, about ten o'clock in the morning, where they met according to their promise. We had not been in the house longer than a quarter of an hour, but the king's business, which I thought was a business of greater weight than any particular business, did stick much upon me; and I resolved before I spoke to the particular business about which we all met, I would first speak to Mr. Dugdale to put that in execution which I had resolved. After a short space of time, I desired Mr. Dugdale that I might speak with him in a chamber privately between him and me; he told me, if I would go into the next chamber to his, he would come to me. Accordingly I went, and staid a short space of time, and Mr. Dugdale came to me. I desired him to make the door to, which he did, and I began thus with him.

Mr. Dugdale, said I, for some years last past, since I came to be acquainted with you, I have always had a good esteem of you, and you a good report in the country where you live; and now there is an opportunity put into your hands to serve his majesty and his Protestant subjects, if (as an honest man ought) you will discharge your duty. Mr. Dugdale replied, Sir, what do you mean? why said I, I mean this in a few words, here is a plot discovered in London, and if it be in London, I conceive it hath been in part acted at Tixall; and if there, of necessity, you having such a government and rule over that house, it is impossible but you must know it. He looked upon me very earnestly, and gave me a smile, but answered me not. I replied to him again thus; said I, There is a natural allegiance which every subject owes to his sovereign; and by that it is required, that if any subjects know of any plot or any conspiracy against his person and government, they ought in conscience to discover it; therefore, Mr. Dugdale, said I, discharge a good conscience, and tell what you know, for it is commonly suspected you are concerned in the plot. He answered, I have taken the oaths of allegiance and supremacy. When and where? said I. Before his majesty's justices of the peace at Stafford, said he. Then, said I, there is not only that natural allegiance which every subject owes to his prince, but the oath of Almighty God lies upon your conscience; therefore discharge a good conscience, and tell your knowledge. He stood pausing a little while, and by and by, said he, If I should make any discovery, how should I be secured of my life? You need not question that, said I, nor his majesty's gracious pardon, which he hath promised in his proclamation. Have you seen the proclamation? Yes, said he. Said I, you have but a short time, a day or two to discover in, for this is the 23rd, and as I do conceive, you ought to discover before the 25th. He stood pausing a while about the time; said I, You need not question his majesty's gracious promise, and to encourage you thereto, there is not only an assurance of pardon, but a promise of reward of two hundred pounds. Said he, if I do discover any thing of my knowledge, I matter not, nor desire (I do not know which it was) his majesty's money, so I may be secured of my life.

Upon this, my lords, said I, Sir, you need not question his majesty's gracious promise, my life for yours if you have not his pardon; but I will take special care about it, for I will send up a letter to London, directed to some of the lords, (which I accordingly did) and I will also speak to captain Lane, who is a worthy gentleman, to interpose in it too. Then, said he, I will make a discovery of the plot. Then, my lords, he told me first some particular passages relating to this lord at the bar, and also concerning Mr. Evers and Mr. Petres, now in custody, and some other particulars: I wished him that he would speak no more at that time. And when I parted with him, forthwith I consulted with myself what I ought to do in point

of law: I knew, I must discover that a further discovery might be made of what had passed between us. Then I went to Mr. Freke, who was either mayor or justice of peace in Stafford, and told him he must come with me to serjeant Parry's. He asked me what to do. I told him, when he came, he should know; he accordingly came, and took short notes of a further discovery, and Mr. Freke he certified it up to Mr. Chetwyn, who was then at London. Upon the day following, the 24th, I rose and went to one Mr. Vernon, one of his majesty's justices of the peace, and told him what had happened, and he sent for captain Lane, another of his majesty's justices of the peace, and they took an examination of him. I have done, my lords, with reference to his discovery, and the time.

L. H. S. Do you remember what he mentioned of my lord Stafford? What he said of him?

Mr. Southall. Truly, my lords, I can only tell what he said at the first examination: He told me, the first time my lord Stafford spoke with him was at Tixall Hall, nigh to the Gatehouse, betwixt the gate and the hall. My lord was going into the hall, and my lord Stafford told him it was a very hard thing, or to that purpose, that they could not say their prayers but in private, and after told him the same day or night t'one, that they had some work to do, and he might or must be instrumental in it. This was the effect of what he told me passed the first time. Another time I think he told me he was to have 500*l.* to kill the king.

L. H. S. When did he tell you so?

Mr. Southall. Not till captain Lane examined him, which was the second time he was examined; which was about the 26th.

L. H. S. Did he swear that before Vernon and Lane?

Mr. Southall. Yes, he did, I could give your lordships a breviat of what he swore then.

L. Staff. I desire he may give that breviat.

Mr. Southall. I took some notes of what he swore then.

L. H. S. Have you them by you, or about you?

Mr. Southall. Yes, my lords, I have.

L. H. S. Produce them.

Mr. Southall. I took this upon some paper I had in my pocket, and is the substance of what he swore. (Which he delivered to the Clerk.)

Clerk. "December the 24th, 1678, Mr. Dugdale informeth, That in September last, he met in Tixall the lord Stafford, nigh to the gates, who said, That it was sad they were troubled they could not say their prayers, but in a hid manner; but suddenly there would be a reformation to the Romish religion, and if there be a good success we shall enjoy our freedom. And that upon the 20th day of September, 1678, the said lord Stafford told this informant, That there was a design in hand, and if he would undertake in it, he should have a good reward, &c. and make himself famous. The same day this informant went up into Mr.

Francis Evers's chamber, to know what my lord Stafford meant by his words; and he first made him swear secrecy upon his knees, and then told him, That he might be a person employed, and have a good reward, and make himself famous, if he would stand instrumental with others in taking away the king's life, by shooting, or otherwise; and need not fear, for that the pope had excommunicated the king, and that all that were excommunicated by him were heretics, and they might kill them, and be canonized for saints in so doing. And that the design was to kill the duke of Monmouth as well as the king.

"December the 29th, 1678, this informant saith, That since the 20th day of September last, the said lord Stafford did promise him 500*l.* as to the carrying on of the Plot, and that Mr. Evers should give him instructions about the same. And that the lord Stafford told him, he did not doubt of his fidelity, for Mr. Evers had given him a good character to be trusty. And that the lord Stafford told this informant, That there was a design to take away the life of the king, and the life of the duke of Monmouth, and that several others were to be employed in the design besides this informant. And that this had been thoroughly considered of to be the fittest way for the establishing of the Romish religion. And that at the said time, the said lord Stafford laid his hand upon his head, and prayed God to keep him in his good mind, and to be faithful to what he had entrusted him in, &c.

"And this informant further saith, That he doubting of the lord Stafford's payment, the said Mr. Evers promised him the making good of my lord Stafford's promise, &c.

"And further saith, That he saw a letter directed from my lord Stafford to Mr. Evers, and he read the same, and knows it to be my lord Stafford's writing; and that therein was written, that things went on well beyond the seas, for the carrying on the design, and so he hoped it did do here in England, &c."

Sir W. Jones. My lords, we will examine no further as to Mr. Dugdale, but will conclude with this witness, and I think he speaks fully to him. The next witness we called was Dr. Oates, and your lordships have been pleased to observe, That what exceptions have been made against him, have not been so much by witnesses produced, as by opposing one part of his testimony to another, what he swore at one time to what he swore at another: To which we shall give an answer when we come to sum up our evidence; for there will be no need of witnesses to what is objected against Mr. Oates, but only of observations. But as to the third witness Turberville, we have something to answer of witness, and something by way of making observation. We will first call our witnesses.

[Then Mr. Southall desired his Paper again, which the Court told him he should have a copy of from the Clerk.]

Sir W. Jones. And our first witness is to this purpose: It was objected against Mr. Turberville—

L. H. S. Have you done with Dugdale? You have forgot to give an answer to the objection about the point of time when Hobson told him of the design.

Sir W. Jones. My lords, that will be when we come to make our observations; we shall not answer that by witnesses; when we come to sum up our evidence, I doubt not but we shall give a sufficient answer to that objection. But to go on with what is to be answered by testimony, your lordships will be pleased to remember, that Turberville did inform your lordships, That he had some converse with my lord Stafford at Paris, being introduced by some of the fathers. My lords, we shall call a gentleman that happened to be there at that time, that will tell you, though he did not know my lord Stafford, yet he knew that Turberville did converse much with an English lord in that place where my lord does acknowledge his lodging to be. He will give you some further account how Turberville went to Diep in expectation of my lord, and how he had a message from the lord, though he did not know my lord Stafford. He will give you a further account how Mr. Turberville was earnest with him to go to Calais, and then told him, he might go over with my lord at that time. The use we make of these particulars we will forbear to mention till we sum up our evidence. We desire to examine Mr. Thomas Mort. (Who was sworn.)

Sir W. Jones. We desire to ask Mr. Mort, whether he knew Mr. Turberville at Paris, and at what time.

L. H. S. What say you, Sir?

Mort. Yes, my lords, I knew him, it is now five years past since we were in Paris. He and I had been intimately acquainted before, we lived in the same family. I was several times in company with him, and many times in his brother's company, which was a monk, and I heard him say his brother had an intention he should be of the same order. And some time after that he altered his resolution, and designed for England, and I had such a design too to go from Paris, where I was an apprentice. And being acquainted with him, I resolved to go over with him, and he told me, his brother the monk had introduced him into the favour of a lord; as I take it, it was my lord Stafford, as well as I can remember. And that there was a vessel to come to Diep, a yacht, and we should go thither to go over with my lord. And Mr. Turberville told me, we must make as much haste as might be, for it were better to be there a day or two too soon, than too late. We went to Diep, and when we came there, the vessel was not come. And when we had been there a fortnight, or thereabouts, we were put to a great deal of inconveniency, by reason of our long stay there: And, I think, if I mistake not, I or some of the company said, Cursed is he that relies or depends on a broken staff; alluding, as I believe, to my lord Stafford's name.

VOL. VII.

Mr. Turberville told me, if we did go to Calais, we might go over with my lord; but how or by what means he understood the vessel would be there, and my lord go that way, I know not. But we did not go thither, we had another opportunity; there was a small vessel, whether a fish-boat or a coal-vessel I cannot tell, a very little one it was, but we took the opportunity, and came over in it.

Sir W. Jones. My lords, we shall make use of it in due time; we only call him now to prove his converse with a lord at Paris.

L. H. S. Did you ever see Turberville at a lord's house in Paris?

Mort. No, my lords, not that I can remember; but I think, as near as I remember, I will not be positive, I walked about Luxemburgh-House while he went, as he said, to the place where the lord lodged. I was thereabouts till he came.

L. Staff. In what street was it?

Mort. Indeed I cannot tell.

Sir W. Jones. This man is very cautious.

L. H. S. Can you tell the lord's name?

Mort. I do not remember his title; but I think it was my lord Stafford.

Sir W. Jones. Pray who were you servant to? Who were you under?

Mort. My lord Powis. I served as a Page to him, when Mr. Turberville was gentleman-usher to the young lady, one of his daughters, since married to my lord Mollineux.

Sir W. Jones. Will my lord please to ask him any questions? If not, we will go on.

L. Staff. No, not at present.

Sir W. Jones. Well then, my lords, we desire to call one Mr. Powell, a gentleman of Grays-inn, to tell you when he first heard Mr. Turberville speak of this evidence he hath now given.

(Mr. Powell was sworn.)

Sir W. Jones. Pray will you give an account what discourse you had with Mr. Turberville about the Plot, and when.

Powell. About this time was twelve month we discoursed about it, and he told me, that he had much to say in relation to the Plot; but truly he did not name any particulars to me at that time.

Sir W. Jones. Where was this, we desire to ask him.

Powell. It was at the King's head tavern in Holborn.

Sir W. Jones. Are you sure it was a year ago?

Powell. It was about this time twelvemonth.

Sir W. Jones. What was the reason he did not think fit then to reveal it? Did he tell the reason?

Powell. I think he gave me a reason, that he was something cautious, because he feared he might disoblige his brother at that time.

Sir W. Jones. Did he give you any further reason?

Powell. I think he said he was afraid he should not have encouragement enough, for

5 B

he said some of the witnesses had been discouraged and he was afraid he should be so too.

Sir W. Jones. Now we shall call a few witnesses to Mr. Turberville's reputation, which have known him a good while. Mr. Hobby.

L. H. S. Was this time that Mr. Powell speaks of, that he did discourse with him, before or after that of Yalden?

Sir W. Jones. My lords, we do not know of any discourse with Yalden; nay, we believe none such was. The witness speaks of a year since.

L. H. S. What time does Yalden speak of?

Sir W. Jones. February or March last, and this was a year ago.

L. H. S. This was then before that certainly.

Sir W. Jones. We desire that Mr. Arnold, a member of the House of Commons, may be sworn. (Which was done in his place.)

Sir W. Jones. Do you know Mr. Turberville?

Arnold. My lords, I do know him very well, and I have known him these two years; He came recommended to me from his grace my lord duke of Buckingham. My lords, presently after the breaking out of the Plot, he was sent down into our country by the lords of your lordships house that were of the committee, and a particular recommendation from the duke of Buckingham to me, to give him direction and assistance to find out a priest, one Charles Pritchard, and I think also if I mistake not, one Morgan, my lord Powis's priest. I spoke with him before he went, I sent letters down with him, I spoke with him afterwards: He hath been in my family sometime; he hath behaved himself very well there, and in several other sober families nearly related to me. I have not heard a better character of any man from all sorts of people, than of him, in my life.

Sir W. Jones. Did he tell you any thing of the Plot, sir?

Arnold. My lords, I did several times find by him, that he knew much; having conversed both in France and here with Jesuits and priests. I pressed him oftentimes to discover his knowledge, and to come in to the council; but he gave me such answers why he did not, that I could not answer.

Sir W. Jones. What were they, sir? Pray tell us.

Arnold. That the witnesses that were come in, were in danger of their lives; that they were discouraged, that they were discountenanced; and as long as the duke of York had that power in the council that he had, and my lady Powis's brother had that power over these countries where he lived, (which his lordship is often pleased to call his province) he durst not do it for his life.

Sir W. Jones. Do you know Mr. Turberville, and how long have you known him?

(Then Mr. Hobby was sworn.)

Hobby. My lords, I have known Mr. Turberville near four years.

L. H. S. What account can you give of him?

Hobby. My lords, my first acquaintance with him, was at my brother's house in Glamorganshire. When I came there, my brother shewed him me, and told me he was a very worthy man, but his friends had cast him off because he would not take orders in the Romish church. He lived at my brother's above a year; and when he came thence, my brother writ a letter of recommendation to my father to receive him there, and do him all the kindness he could. He came to my father's and staid there near half a year, or thereabouts, I cannot tell to a month or so. Since I have known him often in this town, and been in his company; and I never knew, nor heard but that he behaved himself like a worthy honest gentleman: But as to any thing of the Plot, I know nothing.

Sir W. Jones. We ask you not to that: Where is Mr. Matthews?

(Then Mr. Matthews, a divine, was sworn.)

Sir W. Jones. Mr. Matthews, pray tell my lords whether you know Mr. Turberville, and how long you have known him?

Matthews. Yes, my lords, I have known Mr. Edward Turberville for about four years last past.

L. H. S. Go on, what do you know of him?

Matthews. My lords, he lived some time in my neighbourhood; I never knew him guilty of an ill action at all but, a person of a very fair reputation: He acknowledged himself a Roman catholic, and was pleased to give me the liberty to talk to him. I found him inclinable to hearken to me, and to those reasons I offered to him; and I found he had a mind to quit that religion, being convinced by the arguments I gave him; and at several times he hath since told me, those were some of the great motives of his coming over from the Romish to the Protestant communion.

L. H. S. What were the motives?

Matthews. One was the hazard I told him of, in his living in the Roman Communion, as to salvation; another was the excellency of the doctrines of our church, its principles and practices.

L. H. S. Did he acknowledge to you, he knew any thing of the Plot?

Matthews. No, not a syllable of it.

Sir W. Jones. We do not call him to that purpose.

(Then another Witness was sworn.)

L. H. S. What is your name?

Witness. William Seys.

Sir W. Jones. Pray will you acquaint my lords, what you know of Mr. Turberville.

Seys. I have been acquainted with him these two or three years, and I never knew him guilty of any ill action in my life. I never heard of any body that could asperse him; but he hath behaved himself like a very honest civil gentleman.

Sir W. Jones. Where were you acquainted with him?

Seys. Here in London.

(Then Capt. Scudamore stood up again.)

Sir W. Jones. He was sworn before, we desire he may speak to Mr. Turberville's reputation.

Capt. Scudamore. My lords, I have known Mr. Turberville for these three quarters of a year, I have been acquainted with him in London; he hath been much at my house, and all that while I saw nothing in him, but that he is a very honest gentleman.

Sir W. Jones. My lords, I think we have but one matter more, which we should have mentioned before, but that our witness was not come: but I hope we shall have the favour of some honourable lords that do know the thing; and I think there are many more that can prove it. My lord Stafford, who is very ancient, it may be, may not remember matters exactly; I blame him not; oblivion is the great infirmity of old age. He was pleased to say yesterday, he had so good health, that he had not been lame, I think he said for these forty years; but at last his page said, for the last seven years: and I shall confine our proof to that time. My lords, I think there are some honourable lords here, that have seen this noble lord, that says he was not lame in so many years, very near about the time that he was confined and imprisoned, go lame and come lame to the house, and ease himself by holding up his leg sometimes. My Lords I do not say, the circumstance is very material, but only to shew my lord may forget himself, which I shall impute to his old age.

L. Staff. I will acknowledge it, if your lordships please; I did say I had not been lame with the gout so long, no more I have not. I was troubled with the Sciatica many years, but it is above eight or nine years since that; and I took so much opium, that that, and my going to the Bath, cured me. I have often come lame to the house, out of weariness and old age; but if ever I put my foot upon a stool for the gout, or was ever so lame as to put my foot upon a cushion to ease it, I will admit what he speaks to: I will acknowledge thus much to save time.

Sir W. Jones. Seeing my lord is pleased to go off from it, I will call no witnesses to it.

L. Staff. I go off from nothing, I was lame three or four years when the king came in: I went to the Bath, and afterwards into Germany; and what with opium, and the Bath, I was cured, and have not been lame these eight or nine years. I have not had the gout in my foot for these many years, and I never was so lame to put my foot on a stool, to my remembrance.

Sir W. Jones. I do not think we shall need to trouble your lordships more with this matter; that my lord was lame some time, he is pleased to confess; one witness says, that he put his foot upon a cushion; my lord doth not acknowledge that.

L. Staff. I was never lame at Paris.

Sir W. Jones. That a man that is lame does

sometimes ease his foot, is no hard consequence, I think.

L. Staff. I deny I was lame then; I walked about the streets of Paris, I desire I may not be misunderstood.

Sir W. Jones. I must then desire, under his lordship's favour, if he will not acknowledge it to be within seven years, that we may prove it, and falsify his witness, the page.

L. Staff. I have gone with a stick to the House, I acknowledge it, and been lame with weariness.

Sir F. Winnington. The objection went to the credit of our witness, and therefore we desire to answer it: my lord was not lame, as he says, for so many years; but if we prove that within less time my lord hath been lame, it will take off that objection from our witness. And we desire a noble lord or two of this House may testify what they know. And first the earl of Stamford; (who was sworn.)

Earl of Stamford. My lords, I think I have not had the honour to sit in this House much above seven years, but long since that time I have seen my lord Stafford come lame into the House of Peers, and that is all I can say.

L. Staff. I have come lame with a stick to the House, I say.

Sir F. Winnington. My lords, we desire that noble lord, my lord Lovelace, may be sworn; (which was done.)

Lord Lovelace. My lords, the account that I can give your lordships, is this; I cannot ascertain any time, but I am sure, and I do declare it upon my honour, and the oath I have taken, that I have seen my lord Stafford lame in the House of Lords within less than these seven years.

L. Staff. If he goes home to the Tower, he may see me lame, but never put my foot upon a stool.

Sir W. Jones. My lords, your lordships will be pleased to remember, we did call a witness, one Thomas Launder, and the account we had of him was, he was gone sick from the bar; he was very sick indeed; but being just now brought, we desire he may be heard, though it be out of time: we call him to the reputation of Holt.

(Thomas Launder was sworn.)

Sir John Trevor. Do you declare to my lords, whether you know Samuel Holt?

Launder. Yes, my lords, I do.

L. H. S. What do you know of him?

Launder. He is a smith, my lord.

L. H. S. What reputation is he of?

Launder. Indifferent, my lord.

Sir W. Jones. What do you mean by that, good or bad? speak plainly.

Launder. A drunken sot, a man that will drink, and rant, and tear the ground, and sing two or three days or a week together, and lose his time.

Sir F. Win. I would ask this man, whether he was summoned as a witness upon any trial in relation to the Plot?

L. H. S. Were you ever summoned as a witness about the Plot?

Launder. My lords, I was summoned concerning my lord Aston's trial, and I came up with my lord Aston's people as an evidence.

Sir W. Jones. Had you any offer of money, and what sum?—*Launder.* Yes, my lords.

Sir F. Win. Acquaint my lords with it.

L. H. S. Who offered it you? and when? and for what?

Sir W. Jones. For what was that money offered you?

Launder. The money was not absolutely offered me, but I was to have an horse to ride on, and money in my pocket, if I could take off James Ansell, Dugdale's evidence.

L. H. S. Who came and offered it to you?

Launder. I was sent for by Mr. Fox to Tixall-Hall, and there was my old lord's brother for one, and Mr. Thomas Aston, that is, this young lord's brother; and Mr. Francis Aston, who is my lord's eldest son, were in a room together, and this Thomas Sawyer that was here, and more were in the room when they promised all these things.

L. H. S. If you would do what?

Launder. If I would take my oath, that this James Ansell was a perjured rogue.

L. H. S. Did all they make you this promise?

Launder. Yes, my lords.

Mr. Foley. It was a consult together about taking off the evidence.

Sir W. Jones. My lords, we have done with our witnesses; if my lord Stafford please to conclude, we are ready to do so too.

L. Staff. What should I conclude? about those witnesses you have now brought in?

Sir W. Jones. Your lordship may please to conclude your evidence, we are ready to conclude on our part.

L. Staff. These new witnesses, must I say what I can say against them presently? I cannot do it, I know very few of them.

L. H. S. Have you any witnesses here, my lord?

L. Staff. I cannot possibly have any; for I did not know, nor guess these people would be brought against me: they are persons I know nothing of. Ansell I have seen four or five times, I may have seen the rest, but I do not know them to be able to give an account of them.

L. H. S. If you have any witnesses here to support the credit of your own witnesses that have been impeached, you may call them.

L. Staff. I have none, my lords.

L. H. S. Will your lordship recapitulate the material parts of your defence, that the process may be closed?

L. Staff. I am very unready for it, my lords. Let me ask Mr. Whitby a question, if I must have no more time.

(*Mr. Whitby stood up.*)

L. H. S. There he is; what would your lordship have with him?

L. Staff. I do not know the gentleman.

Whitby. Nor I your lordship.

L. Staff. I ask him upon the oath he hath taken, I know he will speak truth, whether he did not some years ago tell my lord Aston that is dead, this lord's father, That Dugdale was a knave and persuaded him to turn him away, (I say not it is true, but I have heard so) and desired him to tell his son so, that he might quit himself of him?

L. H. S. What say you, Mr. Whitby?

Whitby. My lords, about three or four years ago my lord Aston that is dead (I believe it may be two years last April) sent for me to dine with him; and when I came thither, he told me, says he, Mr. Whitby I have sent to you to acquaint you with a thing, but I do not believe it before I tell it you. What is it? said I. Said he, Stephen Dugdale hath acquainted me, that you have employed persons upon the water to destroy my water; said I, my lord I never endeavoured it. He said, he did believe me. Then I told my lord; said I, Mr. Dugdale is a dishonour to the family, upon this account, because many times people come for money, and he will not let them have it, but puts them off, and makes them complain. Says my lord, my son is now at Standall, but I will tell him as soon as he comes home; and if you will bring the persons that have waited so long for their money and made so many journies, you shall hear what he will say to it. Within a while my lord Aston that now is, came down, and I went thither to see what became of it. And I went to the Bowling-green where my lord and his son were; but my old lord said nothing to me of it nor his son neither. Within a few days my old lord Aston's gentleman came down to my house, (one Mr. Ashley) said I, I wonder whether my lord Aston hath acquainted his son with what I told him. Says he, he hath, but it signifies nothing; for he will hear nothing against Mr. Dugdale. This I speak upon my oath it is true.

L. H. S. Your lordship sees what this gentleman's opinion was of Dugdale then, he would hear nothing against him. Will your lordship conclude?

L. Staff. My lords, I am mighty unready, and know not which way to turn myself, upon those new things they have brought; for I knew nothing of it, nor expected any such thing. But will you be pleased that I may call Simon Wright again? (Who stood up.)

L. H. S. What would your lordship have with him?

L. Staff. I have nothing to say to him, but to desire him to see this letter, whether it be of his own writing or no.

L. H. S. Look upon that paper, shew it him: (Which was done.)

L. H. S. Is it your hand?

Wright. This is my hand. It is part of that I was hired to do. There is another of a great deal more consequence than that.

L. H. S. Deliver it in, and read it.

Clerk. "June the 14th, 1680. Sir, I can, I bless God, with a safe conscience declare upon

my oath that Mr. Dugdale hath been unkind to me in taking his opportunity of my poverty, by a reason of a private meeting of us two by his appointment, he did that time proffer if I would swear against you, and Mr. Gerard, he would protect me as one of the king's evidence, and I should not want money; and in the hall at Westminster he said, if I did discover it that day at Mrs. Price's Trial, he would set me in the pillory. This I have owned to his face, and shall not go back from this and more, neither for fear nor favour. So I rest as you shall find by your Servant,

"SIR. WRIGHT."

L. H. S. Is this your hand?

Wright. Yes, my lords; this I was advised word for word to write.

L. H. S. Who penned this for you? Did you pen it yourself?

Wright. No, my lords, they penned it, and a great while I would not set my hand to it; but Jermin Drayton said I need not fear, I was not to swear against the king.

L. H. S. Who is that?

Wright. He is butler to Mr. Heveningham.

L. Staff. See what you have under his hand; I have no more to say to him.

Wright. But by their persuasion at last I did write it, and a great deal more than that.

Sir W. Jones. I desire to ask Mr. Wright whether they would have had him swear this?

L. H. S. Were you desired to swear this?

Wright. No, my lords, they never put me to swear it; for they told me I was not to swear against the king: But if I would be so kind to make an affidavit before a justice of peace, I might then go where I would into the country, and I should have money to bear my charges.

Sir W. Jones. Who would have had you swear it before a justice of peace?

Wright. Jermin Drayton, and Mr. Longmore; where he is I cannot tell, but he told me that sir James Symons was better able to perform than Dugdale was to promise.

Serj. Maynard. The same thing that was done by Reading, he was convicted for it, and stood in the pillory.

Sir W. Jones. We desire to know, whether he was ever with sir James Symons himself, and what he offered?

Wright. I was once with him at the King's bench; I dined there: after I had written the paper that was read, he gave me 20s. and said, he hoped I would not go off from what I had said; and he hoped I was sensible his gratuity would not be wanting, and was sorry he had not occasion to use me.

Sir W. Jones. My lords, we have done with him; I only observe, that my lord Stafford was pleased to produce this paper; he was master of it, and had had it in his keeping.

Sir F. Win. Wright says, there is another paper of more consequence; I wish his lordship would produce that also.

L. Staff. I did not know of this till just now it was delivered into my hands. Did you see Mr. Longmore before this letter was writ?

Wright. Both before and after, to the best of my remembrance, and at the time when sir James's trial should have been, at the sign of the Crown in King-street in Bloomsbury.

L. H. S. My lord, will you conclude?

L. Staff. My lords, I desire your lordships pardon; I do not know how really to go about it to-night. I will obey your commands, though I fall down at the bar. I protest before God, I was all night so ill of the cramp, that I had no repose. If you will have me go on, I will, if you will give me but a little time to recollect myself.

L. H. S. God forbid, when your lordship is to speak upon so great a concern, and a matter of that importance as this is to you, you should be put at the end of the day, and in the midst of all your thoughts, to sum up your evidence. I do believe, if you do desire time till to-morrow, my lords will give it you; and if you would have me move my lords in it, I will.

L. Staff. One word, I beseech your lordships—

Sir W. Jones. We do not oppose it.

L. Staff. My lords, I desire one thing; I am very ignorant in this matter, and do not understand it; I would desire your lordships directions to know in what method I must proceed.

L. H. S. Your lordship is to proceed thus, if you please: Your lordship is to recollect and recapitulate all the proofs you have made; and you are to enforce them as well as you can, and make such observations upon them as are for your own advantage; and this your lordship must do for the fact. If there remain a doubt in law which you may have occasion to move, counsel may be demanded; and if it be considerable and worthy of debate, you may have counsel heard to speak to it. But the process is closed, no more witnesses are to be heard; there remains only observations upon the fact or law to be made.

L. Staff. Are no more witnesses to be heard?

L. H. S. No, I think not: it is agreed on both sides all is done: But my lord, I would not have your lordship to understand me so, that if so be you have yet any material evidence, that you think it does concern you to produce, and you have it ready to-morrow, before you sum up the evidence; I believe then, if you move my lords, they will let it be heard: Otherwise I think here is an end of witnesses.

L. Staff. I desire the paper I gave in, may be returned me.

L. H. S. But in order to this, my lord, if your lordship does think you shall use or produce any other witnesses, it would be of importance that you would name them now.

L. Staff. Truly, my lords, I will go hunt for none; and I think I shall have none: only one thing I must beg your pardon in; which is the only thing I must have witnesses to, to answer what they have said, that my lord Aston would not come to account. My witnesses are very near me. Mr. Lieutenant, some in the Tower, and one Mr. Birch.

L. H. S. My lord Stafford, bring those tomorrow that you name to-night.

L. Staff. If you please that I may have that paper, Wright's letter.

E. of Shaftesb. My Lord Steward, I desire that letter may be kept.

L. Staff. It is a paper that was given me, and I would return it: if you will not allow me it, I cannot help it.

L. H. S. It is desired it may remain where it is: But your lordship may have a copy if you please attested by the clerk. Is it your lordships pleasure to adjourn?

Lords. Ay, Ay.

L. H. S. This House is adjourned into the Parliament-Chamber.

[Then the Lords withdrew in their order, and the Committee of Commons returned to their House, where Mr. Speaker resumed the Chair.]

A Message was sent from the Lords by sir Timothy Baldwin and sir Samuel Clark:

Mr. Speaker; The Lords have sent us to acquaint this House, That they have ordered William viscount Stafford to be brought again to his trial at the bar in Westminster-Hall, tomorrow morning at ten of the clock.

THE FIFTH DAY.

Saturday, December 4, 1680.

About the hour of ten in the morning, the Lords adjourned into Westminster-Hall, going thither in their former order into the Court there erected; and Mr. Speaker having left the chair, the Commons were seated as before. The Court being sat, proclamation for silence was made, and the lieutenant of the Tower commanded to bring his prisoner to the bar; which being done, the Lord High Steward began as followeth.

L. H. S. What says your lordship, my lord Stafford? My lords are prepared to hear what your lordship can say in the summing up of your defence.

L. Staff. My lords, I must needs say to your lordships, That you have given me favour and time all that I could demand. But I am a very unfortunate man in many things, unfortunate in being brought hither upon this account; and truly, my lords, I am very unfortunate, that I had not yesterday, before I went away, the names of some very material witnesses, and some that I did not know of, till within this half quarter of an hour: I humbly offer this to your lordships consideration as the state of my case. It is true, my lords, I acknowledge I was bound up yesterday to Mr. Lieutenant, and some others that I named; but I humbly tell your lordship this, That I am informed of some material witnesses more this morning.

L. H. S. Are the witnesses you speak of, any of the witnesses you named last night?

L. Staff. No, my lords; it is one of my lords, a peer of this house.

L. H. S. How many more have you?

L. Staff. Five or six.

L. H. S. To what point?

L. Staff. To discredit the witnesses that have been brought against me; both some of those that have discredited mine, and some that have sworn against me particularly.

L. H. S. There is no end of this way of proceeding.

L. Staff. My lords, I profess to your lordships, in the presence of God, I do it not for delay, nor did I know of them then.

L. H. S. What say you to it, gentlemen?

Sir W. Jones. My lords, I am afraid this proceeding at this rate will never have an end. If his lordship have any witnesses to any material part of his Defence, though he hath bound himself up, I should not be against hearing of them. But if his new witnesses are only to the reputation of our witnesses, then perhaps we must have some other witnesses brought to discredit his; and we not knowing who these new witnesses of his would be, may need perhaps another day to bring testimony against them, so that I know not when the matter can have an end. Your lordships know, there is a rule in the civil law, 'In testem, testes, et in hos, sed non datur ultra.' And I hope beyond that you will not go. Truly, for my own part, I did not expect any other witnesses, but those he was pleased to name last night; in relation to the matters of account; if he please to call them, we shall hear them: But for any other, considering it would prolong the trial to another day, and this cause hath had four days already for hearing, we hope they shall not be admitted.

L. Staff. My lords, I profess to your lordships, if I were alone concerned in it, I should not have moved it; but when I consider my wife and family are concerned, I hold myself bound by the duty I owe to God and them, to propose this to your lordships: I am pressed to it by my wife just now, since the House came in. I protest before God, for myself, I can look death in the face without being afraid; but when I consider in what condition I shall leave my wife and family, it moves me. (Then he wept.) I am not concerned at it for my own part, for I know I am innocent, but, I cannot forbear tears when I consider them; it is not for myself, I take God Almighty to witness, that I weep; I could be content to speak a few words to your lordships, and submit to your judgment, and take my death, if you decree me to it, and not defer it till Monday. But I cannot forbear shewing my grief when I consider my wife and children.

L. H. S. Pray, gentlemen, consider, whether it be not a saving of time, to let my lord examine his witnesses; else my lords must withdraw to consider of his desire. It is true, in the practice of Chancery we do examine to the credit of witnesses, and to their credit; but no further; but what my lords will do in this case, I know not till they are withdrawn.

Sir W. Jones. My lords, we have that opinion of our own proofs, and are so desirous of an end of these proceedings, that rather than

we will give your lordships the trouble to withdraw, if my lord will please now to tell us the number and names of his witnesses, we shall not oppose their being heard.

Sir F. Win. If your lordships please, one word further: We know well of what concern this is to my lord, and nobody desires to have him cramped in his evidence. The objection did lie fair on our side, it looking like a designed delay; and yet we are willing to comply, with this reservation, that if there should be any such witnesses produced now, as may require an answer, that we may not be foreclosed of advising with one another about it.

L. H. S. No, by no means. My lord Stafford, your desire is consented to upon these terms, That your lordship will now name the persons and number of the witnesses you will call.

Mr. Hampden. And the points to which you will call them.

L. Staff. I humbly thank your lordships for the favour, but it is an impossibility for me to do it; If your lordships will give me a quarter of an hour's time, I will name them; I cannot name some of them; one is my lord Ferrers, another is one Dr. Taylor, Dr. Watson, Dr. Elliot, and one William Dale.

L. H. S. Now to what points will your lordship call these witnesses?

L. Staff. My lord Ferrers is to speak his knowledge of Southall the coroner, and that is as to Dugdale; my lord knows that person. Dr. Watson, and they are to invalidate the testimony of Dr. Oates: And there is another man's name, I forget what it is.

Sir W. Jones. To what point is he to be a witness?

L. Staff. It is to Dr. Oates, and the evidence against me.

Serj. Maynard. So there will be pretences made every moment of some new witness to put off this cause.

L. Staff. Under your lordship's favour, I scorn to make any delay. If you think this may not be material, or not fit to be done, I will quit it.

L. H. S. Go on, my lord.

L. Staff. Will your lordships be pleased to begin with my lord Ferrers? [Who stood up in his place.]

L. H. S. My lord Ferrers, your lordship is called upon by my lord Stafford, and you being a witness for the prisoner, and against the king, your lordship is not to be sworn.

Lord Ferrers. My lords, what I have to say concerning that person my lord named, Southall, is only upon hearsay, and upon the reputation he hath in the country; for I have no acquaintance with him, nor do know him at all: But the reputation that hath been given me of him in the country is, That he hath been a very active man in the late times against the king, and is counted to be a very pernicious man against the government.

L. Staff. Call Dr. Taylor.

Servant. I know not where he is, he can't be found at present.

L. Staff. Then call William Dale in the mean time. My lords, this same Southall I never heard of; the other man that drew up the Affidavit, that is Feake, I know; he was named by Southall to join with him in the examination; I can't tell what he was, I can prove that he is an attorney, that he was mayor of Stafford, and proclaimed the king Traitor.

L. H. S. Who was that?

L. Staff. One that drew up the Affidavit of Dugdale, Feake mentioned by Southall.

L. H. S. Who is your next witness, my lord?

L. Staff. One William Dale. [Who being called, appeared.]

L. H. S. What is your name?

Witness. William Dale.

L. H. S. What do you say?

L. Staff. About Dugdale, my lords, what he knows about his offering him any money.

Sir W. Jones. We desire to know where he lives.

Dale. Dugdale never offered me any money.

L. H. S. Where do you live?

Dale. At Onseley-bridge.

L. Staff. Pray ask him whether Dugdale persuaded him to swear against my lord Aston something he knew not.

L. H. S. Did Dugdale ever hire you to swear against my lord Aston?

Dale. No, he never hired me.

L. H. S. Do you know that he ever hired any body else to swear false?

Dale. I do not, my lords.

L. Staff. My lords, I most humbly thank your lordships for your favour in giving me the liberty of examining these other witnesses; I shall trouble you no further, nor give no more evidence; only one witness, my lords, I shall trouble you no further, and that is Mr. Lieutenant of the Tower, to this point, whether my lord Aston did refuse to come to account with Dugdale.

L. H. S. Come, Mr. Lieutenant, do you know any thing about accounts between my lord Aston and Mr. Dugdale?

Lieutenant. My lords, last summer was twelve-month Dugdale came to the Tower, but my lord Aston would not speak with him, unless I were by; so they brought him to my lodging, and he shewed me the books of accounts: I told them I did not understand accounts, but if they would have me be by, I would get somebody to be present that did, and have them adjusted. Mr. Dugdale said he would come another time, but from that time to this I never heard of him.

L. Staff. My Lords, I shall not trouble you with any more witnesses. My lords, I have now done my evidence. I shall, as well as my weak memory and old age will give me leave, sum it up, something (as well as I can) of the evidence given against me, and for me. Truly, my lords, I am able to do it very imperfectly for want of understanding, and truly for want of sleep; but I do not doubt, but that according

to the law, as I am informed it is, since I can have no counsel in matter of fact, or to advise me in any thing of that nature, yet I am also informed by the law, your lordships who are my judges, are my counsel. And I do not doubt but your lordships, when you take it into consideration, will supply any defects which I shall commit, which I believe will be many. I shall spend your lordship's time as little as I can; though these gentlemen of the House of Commons believe I desire to protract it, yet I profess before God I do not. And I declare before them all, and your lordships, I am so satisfied of my own innocency, that I would never beg a moment's time of delay; and I know your lordships will take care of the life of the meanest subject: and though I have had the honour to sit among your lordships as a peer, yet I ask not for your favour, but with your justice too: I shall therefore sum up my defence as well as I can. For the first witness, Dugdale, he swore I was at a consult at Tixall in the end of August or the beginning of September; I have sufficiently proved that in all August I was not there, nor till the 12th of September. I have proved that his first oath was, I was there in August, and a man that will swear false in one thing is not to be credited in any. I have made it appear to your lordships, that upon the 20th of September when he says he was in my chamber, and I sent the page to call him, that that is false; it was only he desired he might come to me to get leave that he might go to the race, my lord Aston being angry with him for it. This I conceive is proved sufficiently by two witnesses, my man and my boy, and this I think I have proved as positively as can be done. My lords, it is true, it is objected against me, that I had said Dugdale was never seen alone with me in my life, it is true; and it is true Ansell swears he brought a footman to me, but he swears it was in the morning, when it was at supper, and does not say that he was alone with me. My lords, Dugdale swore that he told Mr. Phillips and Mr. Sambidge of the death of sir Edmundbury Godfrey on the Monday, some swore he said it was on the Tuesday, but they deny that ever he told it them; and so he is forsworn in that. And, my lords, whether he be a man of any great credit, I think I have proved enough to your lordships. It is proved by two witnesses, Holt and Morral, that he offered them money to swear, as likewise he did to another, one Robinson; whom I do believe, by the information that was given of him, to be a wicked ill man, and not to be credited; but being so, my lords, he was the fitter for Dugdale's turn. And yet he had so much conscience, though he was a poor and needy fellow, he would not swear a man's life away for money. The other two are without exception, the one they say is an idle fellow, and the other a man but of an indifferent reputation; how far that would move with your lordships, I submit it to you. I suppose it is also clear by my witnesses, that Dugdale is a man of no reputation,

having forsworn himself in several particulars; and I submit the credit of all he says to your lordships upon that.

The next witness, my lords, is Mr. Oates, whether he be a doctor or no, I know it not, he would not own it here; he, my lords, swears that he saw a commission delivered to me to be paymaster of an army to be raised, God knows when, I never heard when, or where, I suppose it was in the clouds, for I never knew where else. Mr. Oates all along before swore only that he believed I was in the Plot, now he swears that I was in it, at Mr. Fenwick's chamber, a man I never saw in my life, nor heard of till this discovery. And that he saw letters subscribed by my name; but that, my lords, I conceive is no evidence at all, for he never saw me write, nor does know my hand, nor does he pretend to know me then: and when he had told your lordships he had a letter of mine, he pretended to look for it, and then said he had lost it, that is, never had it. But besides, my lords, his evidence now does not agree with his former: for I do appeal to your lordships that were in the House then, that he swore the first time, he only saw my name to letters; afterwards he swore (that is, some days after he had ended all his evidence, and knew no more than he had put down then, afterwards he remembers what he knew not before and swears) a commission he saw delivered to me: so his memory encreases as he hath time to invent, and perhaps by another time it might be much more. But, my lords, I think that one particular, his swearing before your lordships, as it is entered in your Journal, that he had no more to say against any body, and afterwards naming the queen, and now to me to have a commission, I conceive, is perfect perjury. My lords, Mr. Oates told your lordships, that he had never been a Papist in his heart, but ever feigned it; truly my lords, I cannot possibly give over that point, that a man that feigns himself to be a Papist, or any thing that in the opinion of Protestants is so wicked a thing as that, is fit to be believed, if he shall not heartily repent himself, and own it to God and man as an ill thing to dissemble so. But yesterday he with a smiling countenance, and as it were with a derision, owns that which must be a very great offence to God Almighty, to pretend to be of an idolatrous church. I appeal to your lordships whether he be a fit witness, I conceive he cannot be thought a Christian, nor to believe in God. I know many wicked and infamous persons have done many wicked things, and yet have been witnesses; but never did any wicked man own a wicked thing, that he might have concealed, with boasting of it, that ever was credited in any thing: for if he had said I do acknowledge I did dissemble with God and my own conscience, but I ask God forgiveness, it was for a good end, and a good intention, it hath been something, (though that could not have atoned for so ill a thing) but shewing no repentance, but rather an impudent affronting of

God Almighty, I think he is not a fit witness, I appeal to your lordships and the whole Christian world if he be. I cannot believe your lordships will condemn me for an opinion which I will go to my death with, and it stands upon me so to do.

The last witness, my lords, is Turberville, and he says, in the year 1675 he often discoursed alone with me for a fortnight together at Paris. My servants he owns he never saw them, and how he could come for a fortnight together, and not see my servants, I refer it to your lordships' consideration whether it be possible. For I will tell your lordships, when I had been a few days at Paris, my landlord came one day to me and said, You do not do well to suffer any body to come to you without your man be by; for there came yesterday a Frenchman to speak with you, and I do not know him, and he went up strait to your chamber without any body with him; it is a dangerous thing, said he, for I know that Frenchmen and people have come up, and been alone with persons, and put a pistol to them and made them deliver their money for fear of their lives; therefore, pray, said he, do it no more. From that time, which was a few days after I came to Paris, the latter end of October or the beginning of November, no Christian soul was permitted to come to me without my servants; how then could he come to me for a fortnight together, and none of my servants see him? My lords, this gentleman very civilly the next day after he had made an affidavit against me, would needs mend it; and sir William Poulteny did acknowledge that he made an affidavit one day, that he came to my lord Powis's in the year 1673, and the next day amended it to 1672. Now I humbly conceive, my lords, a man that swears one thing to-day, which he forswears to-morrow, is not to be believed: and the truth of it is, as his brothers prove to your lordships, he came to my lord Powis's in the year 1671, and so he forswears himself in every thing, and is in no wise to be believed. He swears to your lordships I writ a letter to him to acquaint him that I would go by Calais, and not by Diep; but I have proved I went by Diep, and I assure your lordships I have not been at Calais, I think, these 12 or 14 years. I conceive these things are very manifest and clear proofs against him that he hath not swore one true word. He swears that my lord Powis, my lady Powis, and his friends, persuaded him to go to Doway to be a frier, but not liking it, he came over again, and was in danger of his life by them; but the evidence is sufficiently strong in proof that he afterwards was at my lord Powis's and was well received, that he lay in the house, and was not in the least injured by them. And for his other relations, his brother proves he was not ill used by them. They gave him seven pound to be gone, and trouble them no more. He says, I said he was a coward; and I will tell you why I said so, because a captain, that is now out of England, told his sister so, who told me so; but that is not very material. My

lords, there is one witness more, John Porter, that swears to your lordships this one thing, That this Turberville swore to him at such an ale-house, he knew nothing of the Plot. And then, my lords, there is Mr. Yalden, and he is a gentleman of reputation, he said in his company, there was no trade good but that of a discoverer; God damn the duke of York, Monmouth, Plot and all, for I know nothing of it. Truly, my lords, whether he got money by it or no, is known since he hath been a discoverer, telling what he knew not so many months ago; and therefore I submit it to your lordships what he is.

My lords, these people that swear against me, there is not one of them a person of any quality or condition; and whether they have not rather sworn for money than the truth, by things that are known, and need no proof, I shall observe when I come to it to argue that point in law, whether a man that swears for gain is a credible witness, or no?

My lords, I have, as well as I can, summed up that little evidence that was given against me: I cannot do it better in so short a time; for indeed I had but a very short time last night, and I have not slept; I had the cramp so much in extremity, that my next neighbour heard me roaring out. My lords, I submit myself to your lordships, and doubt not but that the matters charged upon me will appear to your lordships sufficiently answered. And I beseech your lordships well to consider that one thing against Dr. Oates, his dissembling with God Almighty, and his impudent owning of it. This I do insist upon; and I protest before God Almighty, If I were a judge, I would not hang a dog upon such evidence. My lords, I have many points in law to offer to your lordships, and when you please I should do it, I will name them to you.

L. H. S. Name them, my lord; if you have any doubts in law, propound them.

Lord Lovelace. My lords, I would not interrupt my lord, but I think indeed it is no interruption, since his lordship broke off, and was going on to another point. But I think I see one of the impudentest things that ever was done in a court of justice; whilst we are trying a person here for a popish plot, I do see a protest papist standing in the body of your House, and that is sir Barnard Gascoigne. (Who thereupon went out of the court.)

L. Staff. My lords, I do conceive I have cleared myself to your lordships of what I am accused of. My lords, the course of my whole life hath been otherwise; I defy any creature in the world to say, that I ever used one disobedient or disloyal word of the king, or did any such act. I waited on the king that now is, in the unhappy war that is passed, when I was in a low condition enough as to fortune, and my wife and family were thereby reduced to great straits, for my wife and children lived some five or six years upon some plate and jewels that we had; whereas if I would have come, and been at London, and joined with that party, I

could have saved my estate, and lived quietly as others did. But my conscience told me, I ought to wait upon the king, and offer him my personal service, when I could do him no other. I have shown how the witnesses have forsworn themselves; I shall now, if your lordships please, desire your opinion in some points of law. And though perhaps I may name to your lordships many things that are impertinent, or not to the purpose, I beg your lordships pardon, it is out of the weakness of my understanding; and I hope you will not think ill, neither your lordships nor the House of Commons, if I should, through ignorance, move things impertinent. The first point of law is this:

First, I conceive there is no example or precedent for it, that proceedings criminal ever did continue from parliament to parliament, and this is continued to three.

L. H. S. Speak out, my lord, and go on.

L. Staff. Secondly, my lords, I do not question the power of the House of Commons in the least; but, my lords, I know they impeach when they find grounds for it without dispute: But I question whether any man, by the known laws of this kingdom, in capital cases, can be proceeded on, but by indictment first found by the Grand Jury, and not by impeachment by any person, or other body of men.

L. H. S. Say on, my lord.

L. Staff. Thirdly, my lords, I conceive there are many defects in the indictment or the impeachment, (indictment there is none.) There is no overt-act alledged in the indictment or impeachment, I know not well what it is called. And, my lords, by the act of parliament in 1 H. 4. c. 10. nothing from thenceforth is to be treason, but according to the statute of 25 Ed. 3. which includes an overt-act.

Fourthly, My lords, I desire that I may prove that by law they are not competent witnesses, for they swear for money. But, my lords, I forgot one thing to say to your lordships as to the evidence, that these gentlemen did endeavour to prove (I do not speak whether they did or not) a general plot of the papists; whether they did or not, I am not concerned in it, for I say, they have not proved me a papist, which I submit to your lordships; and though any man may know me so in his private knowledge, yet they having not given any proof of it, it is not to affect me.

Fifthly, There is one point of law more, That no man can be condemned for treason, as I conceive, by one witness; and there are not two witnesses to any one point. These are the points of law; I humbly beg your lordships pardon for the trouble, and desire your opinion in them.

Sir W. Jones. My lords, before we make answer to what my lord hath said, I do humbly desire, That for the objection which he hath made against Mr. Southall, proved by a noble lord of this House (though I must observe it was not of his own knowledge, but by hearsay, and that matter of hearsay contrary to the act

of oblivion) to the end there may be no doubt remain of Mr. Southall's credit, that a noble lord of this House, and a gentleman of the House of Commons (who both know Mr. Southall) may be heard to his reputation.

Sir F. Winnington. Lord Ferrers knew him not himself, but my lord Brook and Mr. Gower will give a better account of him.

(The lord Brook was sworn.)

Lord Brook. My lord, what I have to say concerning this Mr. Southall is, That he hath been often employed both by my brother and my mother; and they have so good an opinion of him that they employ him still; and therefore we take him for an honest man, and an able man, or he would not be so much trusted and employed: And I take him to be a very good churchman; for if he was not, I would not employ him.

L. H. S. An honest man, an able, and a good churchman, your lordship says?

Lord Brook. He receives the sacrament four times a year.

Sir W. Jones. Then swear Mr. William Leveson Gower, a member of the House of Commons; (which was done in his place.)

Mr. L. Gower. My Lords, I have been near seven years of Staffordshire, but did not know Mr. Southall till this popish plot was discovered. After that I came acquainted with him (being a justice of the peace in that county) in court, where I found him to be the most zealous prosecutor of the papists in that country, no man like him. I likewise found several popish priests had by his means been apprehended and imprisoned, and one of them since convicted, who by the way still remains unexecuted in Stafford gaol. What opinion some may have heard or had of him formerly, I cannot tell; but this I know, that he hath more than once come to desire my assistance, that he might prosecute the papists the most effectual way upon the statutes made for that purpose, and that he did complain to me that he had not met with good usage elsewhere. My lords, I take opinion to be grounded upon principles; and I do observe that those of this country who do believe this popish plot, and know Mr. Southall, and are principled for the preservation of the king, the protestant religion, and the government, do at this time speak well of him, and those who are not so principled speak otherwise. My lords, I was surprised when I heard my name mentioned upon this occasion: I have told your lordships all the matter of fact that upon the sudden occurs to me, (with my own opinion, which I offer with all submission;) and had I had notice, I might possibly have recollected more, which I would freely have declared to your lordships, but this is all that I can now say.

L. Staff. My lords, if your lordships please, I would say one word, if you will give me leave; I am very ignorant, and beg your lordships pardon for troubling of you: I humbly desire to know, whether after the points of law are

argued, I may speak something, not concerning the evidence of the plot, but concerning myself.

Sir W. Jones. My lords, we shall not oppose the saying any thing he can for himself; but we must conclude, and have the last word.

L. H. S. My lord, the gentlemen that are for the House of Commons must conclude. My lords will give you all the favour they can, but they must have the last word.

L. Staff. I do not oppose it.

L. H. S. Therefore you will do well to say all you have to say together. For the points of law, my lords will give no judgment till the Commons have answered them, and they I suppose will first sum up the whole proofs; then you may say what you have to say, for they must make an end. Gentlemen, will you speak first to the law?

Sir W. Jones. No, my lords, first to the fact.

L. H. S. Go on then.

Then Sir William Jones, one of the committee appointed to manage the evidence, began to sum up the same as followeth:

May it please your lordships; We have now done our evidence as to Matter of Fact; and that which I have in charge at this time, is to remind your lordships of our Proofs; to answer the objections that have been made against them; and to make some observations upon the whole.

My lords, The members of the House of Commons that were appointed for the service of the management of this trial, those of them I mean who began the first day, made a division of our evidence into two parts; the one that which concerned the plot in general, and the other what related to this lord in particular.

My lords, as to the Plot in general, we did call six witnesses; I know some of your lordships have taken notes, and you have their names: They were Smith, Dugdale, Prance, Oates, Dennis, and Jenison.

My lords, because I will save as much of your time as I can, I will not take upon me to repeat what each witness said as to the plot in general; but when I come to the evidence which immediately concerns my lord, I must beg your favour that I may be more particular. I will say thus much for the proofs of the plot in general, that there was by those witnesses so much fully proved, that made it most apparent that there was a general design amongst the Roman catholics to introduce their false religion into this kingdom, that the Jesuits had several meetings to that end, that they endeavoured to do it by several ways, by raising of arms, by collecting of monies, and by designing against the king's life; nay, they had so far advanced their designs, and were in so much readiness, as they thought it time to appoint officers not only for their army, but for the civil government, as if the work were already accomplished.

Your lordships were told by one of the witnesses of a Lord-Chancellor, and of a Lord-Treasurer, (lords now in the Tower yet to be tried;) and you were told also of officers for the military part, a general, a lieutenant-general, and this lord at the bar to be paymaster of the army.

I shall, my Lords, desire to take notice to your lordships, that this design, though it was to be finally acted by other hands, yet it was first contrived, and afterwards carried on by the Priests and Jesuits. You will find them preparing for it, by making sermons to justify that doctrine (which I confess this noble lord denies) of the lawfulness of killing kings. You will find the priests and jesuits, in their discourses as well as sermons, urging and encouraging their disciples and votaries, to go on with their design of killing our king, and giving that common reason for it, that he was a heretic, and it were meritorious to take him out of the way.

My lords, I take notice of these particulars in the general plot, because it may give great light to, and add much to the confirmation of the particular evidence. And my Lords, (I think) I may take leave to say that the plot in general hath been now sufficiently proved. And if we consider what hath been proved at former trials (upon which many of the offenders and traitors have been executed) what hath been published in print; and above all Coleman's letters, written with his own hand, and for that reason impossible to be falsified; we may justly conclude, that there is not a man in England, of any understanding, but must be fully convinced of the truth of the Plot in general. I shall spare to mention the resolutions and declarations of two parliaments, and of both Houses in those two parliaments, without (as I remember) one dissenting voice, expressing their full satisfaction of the reality of the Plot: so that I think now none remain that do pretend not to believe it, but two sorts of persons; the one, those that were conspirators in it; and the other, those that wished it had succeeded, and desire it may so still.

But, my lords, I will be the shorter on this part; for perhaps it will be objected, you have offered a fair proof of a general Plot, here are records, votes of both houses, papers and evidences printed, and witnesses *viva voce* to prove it; but what is all this to my lord Stafford? My lords, it goes a great way to him; I do not say to be a convincing evidence, but to make the particular evidence against him highly credible.

Your lordships cannot imagine, that there are such a store of lords and great men amongst that party (though there be too many) that they should have great choice for great offices. Your lordships hear how the other great offices were disposed of, and truly I think the merit of this lord amongst that party might very well entitle him to an office as great as this of Treasurer of War, or Pay-master to the Army. But what is the evidence of the general Plot (may some still say) to my lord Stafford? What do you

mention the raising an army? What do you mention the collecting of money? What do you mention the providing of arms for? Yes, my lords, they are very useful, for they give a fair introduction to prove against this lord, that he was to have this office. If it be proved by other witnesses than those who swore directly against this lord, that there were arms provided, that there was an army to be raised, and the rest; it proves at least, that there was occasion for such an officer as the particular witness proves my lord to be.

My lords, for the other matter that relates to the consultations of the Priests and Jesuits and their sermons and discourses, I desire your lordships to observe that also; which if you do your lordships will easily perceive what a great influence even that matter hath upon the particular evidence; and how credible it renders the testimony of the particular witnesses. Your lordships will find, when my lord was at Tixall (as Dugdale gives you an account) there was Evers the Jesuit, and other priests still at my lord's elbow, and egging him on to this business. Your lordships will find where Oates speaks of him, it is at Fenwick's chamber, who was a Jesuit, giving him ghostly counsel. Your lordships will find, that at Paris where Mr. Tuberville speaks of him, there were Father Sherborne, Father Nelson, and Father Anthony Turberville. Still the priests are about my lord; and when my lord is among them, or but newly come from them, then he utters the treason of killing the king. And doubtless this traiterous purpose of his did arise from their counsels: so that though our witnesses speak of my lord's discourses at several times about killing the king, yet they make them flow from one and the same fountain, the instigation of the Priests and Jesuits.

But now, my lords, to come to the particular evidence, I think I may say, if ever evidence was convincing, this is so. We have brought three witnesses which speak each of them that which is sufficient to prove my lord guilty; and they speak of overt-acts too, as I shall observe anon.

His lordship was pleased at the beginning of our evidence to desire that the witnesses might look him in the face; and for that he cited two statutes, I suppose he intended the statutes of 1 and 5 of Edw. VI. which statutes, or at least one of them, do say, that there shall be in case of High-Treason, two witnesses to accuse, and those two witnesses brought face to face at the time of Trial: and my lord hath had the benefit of those laws; he hath had two, nay three witnesses to prove him guilty, brought face to face before your lordships; and if these three, or any two of them deserve to be credited, my lord in this case is guilty of High-Treason. My lords, I must beg the favour of looking upon my paper of notes; for the truth is, the witnesses are so many, and the proceeding hath held so long, that is impossible for my weak memory to retain all that was said.

My lords, the first witness we began withal

was Dugdale*; and I know your lordships did take notice what he swore: but it will be my duty to remind your lordships, that he tells you, That he had heard of a general design of making preparations to be ready against the king's death, and this for several years past. But as to the matter of hastening the death of the king, that was but a late counsel. He tells you, I think, that about the latter end of August, or the beginning of September, 1678, Evers and other Jesuits were at Tixall, that there was a consult then about the king's death; and that (by the means of Evers, who was a very great man among them, but since fled, and is intioned in the impeachment) he was admitted to that consult, and heard particularly what every man said; and he does take upon him to say, That at that time the matter of taking away the king's life was propounded, and that my lord, the prisoner at the bar, did consent to it.

My lords, he tells you further, That upon a Sunday-morning my lord came from Stafford to Tixall to mass: My lord was pleased to observe, that we do not prove him a Papist; but we prove my lord came to mass, and that, I think, is one good proof of his being a Papist. Besides Dugdale swears my lord did then complain, That they had not the free exercise of their religion; that they could not say their prayers openly: What were they? Not the prayers of Protestants, not those contained in the liturgy of our church. He could not complain of any restraint as to them; but complain he did, that they had not the free exercise of their religion; but he did hope, if things succeeded well, in a short time it would be otherwise. This is particularly sworn by Dugdale.

My lords, his lordship was very much unsatisfied, that Dugdale was not particular in point of time; he did talk of some matters to be in August or September, but could not fix to any day. But your lordships will remember, that as to one particular, and which mainly concerns his lordship to answer, he comes to a day, or within a day; for he swears positively, That upon the 20th or 21st of September he was sent for to my lord's chamber, the servants were put out; that there my lord did propose to him, in express terms, the matter of killing of the king: He would have him be an actor in it, and he offered him a reward of 500*l.* to perform it. For this, which is the most material part of his particular evidence against my lord, he is certain it was either on the 20th or 21st of September; and he tells your lordships how he comes to remember the time, by a good token, by the foot race that was then to be run; and I do not perceive that my lord does deny, but rather acknowledge that Dugdale was in his chamber at that time. It is true he does deny some other circumstances which I shall answer anon. And here I do think Dugdale undertakes to swear to that which will amount

* See some proceedings respecting his character, in the *Commons' Journal*, April 15, 1679.

to an overt-act, and a damnable one too, that is the offering 500*l.* to kill the king.

But Dugdale (it seems) was not willing to depend upon the promises of my lord for so much money, his lordship had not that credit with him; he repairs to Evers, and desires to be satisfied from him, whether he might rely upon my lord for so much money? Evers told him he might be sure to have the money; and that there was enough in Harcourt's and other mens' hands for the carrying on that blessed design; and that he should have it thence. I might, my lords, remember to your lordships, how Dugdale does particularly swear concerning another discourse he had afterwards with my lord; That my lord complained of the great losses that had been sustained by him and his friends for the king; how, in particular, my lord Aston's father had lost 30,000*l.* and what resentments my lord had of it. He said, That places of profit were rather bestowed upon those that deserted the king, and were rebels and traitors, than on those that did him faithful service: And what does he conclude from thence? he is very angry with the king, and does say, that next to the cause of religion (which was the strongest motive with him to take away the king's life) the king's ingratitude to his loyal subjects, was that which did most offend him.

I shall not trouble your lordships with other particular matters which were to serve as encouragements to the design; as that there was to be a pardon from the Pope; That my lord did write a letter to Evers, which was shewn to Dugdale, wherein he says, That things did succeed very well abroad, and he hoped they would do so at home. I shall only observe, that Dugdale's evidence, as to my lord's damnable design of killing the king, is positive and full. And if this be to be believed (as I hope we shall shew there is no reason but it should be) then here surely is one sufficient witness to prove my lord guilty of the highest treason.

My lords, the next witness we call for against my lord, was Dr. Oates; and I think Dr. Oates is not only positive, but he is positive in that which most certainly will amount to an overt-act; nay, I think to more overt-acts than one. The doctor tells your lordships, That having been at St. Omers and in Spain, he saw several letters that were subscribed Stafford; he did not then know my lord's hand, but he saw the letters, and he tells you the effect of those letters. And I remember in one of them there is this expression, That my lord (the prisoner at the bar) does give assurance to the Fathers, that he is very zealous and ready to do them service.

Dr. Oates tells you, my lords, That afterwards coming into England, my lord Stafford did write a letter, I think it was to his son; but sure I am, the Doctor said, he had the carriage of it to the post-house; That he saw my lord write it; he read the superscription, and he swears, that the hand which writ that letter, was the hand which subscribed to all the

former. And so then joining the one to the other, it amounts to as good an evidence as if he had known my lord's hand from the beginning.

But that which comes home to my lord, is that which Dr. Oates saw, and that which Dr. Oates heard: and they are these particulars which I now mention.

First, he saw a commission directed to my lord to be paymaster of the army, he saw it delivered to my lord's own hand, and my lord accepted it. Dr. Oates read the commission, and he tells you by whom it was signed, Johannes Paulus Oliva, a person substituted by the Pope to issue out commissions. He tells you the contents of it, and of this he swears he was an ocular witness.

He tells you of another matter he heard my lord say, as considerable as the other, That when my lord had received the commission, my lord declared, that he was to go down into Staffordshire and Lancashire, where he was to put things in readiness. What were those things? He had now a commission, by virtue of which, in Lancashire and the other places, he was to prepare and gather monies for that army which he was to pay. So much Dr. Oates doth swear he heard from my lord's own mouth.

But there is one thing further, which I had almost forgot. He doth swear, that my lord was privy to, and approved of, the matter of killing the king; for he doth swear he did hear my lord say at that time, 'He hoped before he returned, honest William' (who was Grove that was executed for this attempt) 'would have done the business.' And what that business was, every man who hath heard of Grove's treason, must needs understand.

There is but one thing more that I remember of Dr. Oates's testimony. Your lordships that have a better advantage to write than we, who are crowded together, may have taken notes of more; but this one thing I do observe: Dr. Oates doth expressly swear, That my lord bore a very ill mind towards his majesty; for my lord did, in his hearing, complain, 'That the king had deceived them a great while, and that they would bear with him no longer, he should deceive them no more.'

My lords, our third witness was Mr. Turberville, who doth give you an account, That he being first sent to Doway, and intended to be entered there in one of the societies, (he was sent by my lord Powis and my lady Powis, and some of his relations of that religion, for that purpose) he did not like the company, he was not pleased with the exercises of that religion, and that with much difficulty he escaped thence and came for England. But finding he was not well looked upon here, nor well received by his relations, he went over to France: That being at Paris, he came into the company of the three Fathers I named before, Father Sherborne, Father Nelson, and Father Turberville; the last whereof, he tells you, was his own brother: That by the means of these priests he

was brought acquainted with my lord Stafford; and doubtless they were able to make him intimately acquainted with my lord. And it did prove so, for he tells you, after some time, that in a lower room of my lord's lodging, my lord proposed to him the business of killing the king. That he did not at all like it, was very unwilling to undertake it, but my lord bid him consider of it, and that he should give him his answer at Diep, having enjoined him secrecy; but my lord after sent him word he would go by Calais: and the witness afterwards went into England, and from thence into the French army. And this is the substance of what Turberville deposeth.

And, my lords, I think it will not be doubted by any man that will consider these three mens testimonies, but that here are two witnesses, if not more, to prove my lord guilty of treason.

But my lord has been pleased against them to make several objections; some have been by witnesses which he hath produced to encounter the proofs that we have offered; and some of them have been by observations that he hath made upon what hath been said by our witnesses and his. I will keep to order as much as I can, and not confound the order and method of his defence.

The witnesses he first brought were against Dugdale, and of them his lordship was pleased to begin with his daughter, the lady Marchioness of Winchester, and his niece Mrs. Howard. Your lordships, I presume, are pleased to observe what they were called to. They did testify that being at Wakeman's trial, they did hear Dugdale swear (says my lady marchioness of Winchester) that my lord Stafford was to come down into Staffordshire in June or July, and Mr. Dugdale was then to receive orders from my lord; and he swore (as she was pleased to say) that there was a consult in August at Tixall, and my lord Stafford was there present. Mrs. Howard (for I put them together) was pleased to say that she was present at that trial, and there Dugdale swore that my lord Stafford did come down in June or July, and that my lord was at the consult in August.

My lords, I will not make objections neither to the religion of these ladies, nor to their relation to my lord, though those be matters that are to be considered. But that which I shall observe to your lordships, is this, that they do not agree one with another: For my lady Winchester says Dugdale did swear that my lord was to come down in June or July, and Mrs. Howard says, that he swore he did come down then. Now there is a great difference betwixt swearing an intention that a man was to come down, and swearing the very act that he did come down at that time. By which your lordships may observe, how hard a matter it is for witnesses that are present at a trial (especially at a trial which did not directly, though it might in consequence concern another person of their relation) to take notice exactly of things.

And truly, my lords, these ladies being of that religion, might have so much concern upon

them for sir George Wakeman the popish physician, and in him for other their friends of that party, that they might not have so much liberty of thought, as to observe exactly all circumstances sworn to by the witnesses; and therefore it is no great matter if they are mistaken in them. But I believe if any one do consult the print (though it be no evidence, nor offered as such) he will find no such thing was at that time sworn; for it is not so printed, and those that took notes did not understand it so.

My lords, the next witness my lord is pleased to bring, is his servant Furnese; and what is it that he testifieth? He saith, that he was with my lord the whole time that Dugdale was in my lord's chamber; and he doth not remember that ever Dugdale was there but once, and he doth not remember that ever my lord bid him go out of the room.

My lords, it is a very hard matter for a man to come thus in the negative, to remember how often Dugdale was there, especially there being no more occasion to take notice of it then, than here appears to be, and that after so long a time. And it is a very hard matter for a servant to gain credit, by saying his master never bid him go out of the room in his life. These things may be done or said, and yet escape the memory of a servant of more age, and of less inclination to favour his master, than this person appears to be of and to have. Therefore I think there will be but a very small matter made of what he said, no force at all in it; and I believe your lordships will give very little regard to it; but rather believe those witnesses that swear positively, that they have seen him with my lord, and speak to a familiarity at that time between them.

This, young man Furnese, was my lord's servant, and of his religion; and it is considerable, whether we have not reason to be afraid that more than ordinary practice has been used to prepare evidence on my lord's behalf, which I shall have occasion to speak to when I come to the other witnesses.

His next witness, my lords, was his boy, George Leigh, who is 15 years of age now, and was eight years old when he came to my lord seven years ago. And he attests the same thing, and to the same purpose with the other. And I think I may leave him with the same answer, for we are nothing more concerned with him than we were with the other. Only one thing I would observe, to shew that his memory was imperfect; he doth not remember that Dugdale was with my lord at all that day, which my lord himself doth acknowledge he was, and the other witness agrees; so that there cannot be any great weight laid upon what he saith.

My lord's next witness was Thomas Sawyer, and he is one of my lord Aston's servants, that I desire to observe of him first. And what does he say? He saith, that Dugdale went away for debt. The contrary to which was apparently proved; for we, by our witnesses, made it manifest, that Dugdale went away for the

matter of the Plot; the fear and dread he was in upon that score, and the circumstance of his being apprehended by the watch at night in his flight, and how he was put to take the oaths, do manifestly prove this. But he says another thing, which I desire may have no weight with your lordships, that Dugdale should threaten, that because my lord Aston would not own him for his servant, he would be revenged of him. Truly, if my lord Aston were here to be tried it would have some weight. But to think, if it were true, that he had so sworn, that therefore he would be so wicked as to do mischief to another man, that he would be revenged of every man of that religion, or of every man that came to my lord Aston's house; that cannot be imagined. So I cannot see what great stress, my lords, the prisoner can lay upon it, as to the present trial, which concerns my lord Stafford.

But, my lords, I desire to observe, that he says further that when Dugdale went away there was a discourse of a plot (this he helps out Dugdale in:) And that there was a discourse of the killing of a justice of peace. So that certainly it does shew, that Dugdale was apprehensive of the Plot. And as to that which he is pleased to say, that Dugdale should deny his knowledge of the Plot, and take drink and with execrations forswear it; it will be no manner of objection at all. For I shall have occasion to shew hereafter, that Dugdale at that time was very far from revealing the Plot he had been so long engaged in; he was in apprehension of the danger of his own life, and Southall tells you how and when he revealed it, and by what inducements he was prevailed upon to do it.

The next witness my lord called, was Philips, the minister of Tixall; and truly all that I can accuse him of, is want of memory, and that is no fault in a man, that perhaps is very studious and careful in his employment, as I hope he is. He tells you, that whereas Dugdale swore at a former trial, that he acquainted Mr. Philips with the death of a justice of peace of Westminster on the Monday, that he did not acquaint him with it; that is, he does not remember it, for no man that swears a negative, can swear more. But whether Mr. Philips's evidence be of any consequence to us, we submit to your lordships consideration; when we oppose to his want of memory, two witnesses that swear he was by when this news was told: And we are told likewise, as a confirmation of that, by two gentlemen of quality, that the report of such a thing was spread abroad all over that country, before it was possible for it to come by the way of ordinary intelligence. Whether, therefore, what Mr. Philips testifies, proceeds from any other cause than want of memory in Mr. Philips, I must leave to your lordships consideration.

But this I would observe to your lordships, that when Mr. Philips was asked by my lord, whether or no Dugdale were a person likely to perjure himself, he could not say so? Nay,

being asked of what reputation he was of? he said, by some he was very well spoken of, by some but indifferently; but I do not remember that he said he was ill spoken of by any. So I think Mr. Philips has rather advanced than prejudiced Mr. Dugdale's reputation and credit.

My lords, I think I may lightly pass over the three justices of peace that were brought to give an account of Dugdale's behaviour before them, and not mention them distinctly because they swear all to the same purpose, That Mr. Dugdale was apprehended upon suspicion of the Plot, that he took the oaths, that he was invited and urged by them to make a discovery of the Plot, which he then denied to have any knowledge of: For all this will be answered, when we come to remind your lordships of Mr. Southall's testimony.

His lordship was pleased, in the next place, to offer to prove Dugdale an ill man, by endeavouring to suborn witnesses: And in the first place he called Robinson, who testified a very unlikely thing, that Mr. Dugdale should call him in the street, and bring him to an house, and offer him money to swear against my lord Stafford; which money he had in an handkerchief, but did not tell him what particulars he should swear to: Nay and this after he had told him he could swear nothing. And it does not appear, that Dugdale had any manner of knowledge of him, or that this gentleman, Robinson, had any knowledge of my lord Stafford; So that it was a very rash and presumptuous thing, that Dugdale should attempt a man that he knew not; and a very imprudent thing, that he should suborn a witness to swear against a man that the witness to be suborned did not know. But I shall say no more of him, because I think upon the account that has been given of him by a noble earl of this House, and an honourable member of the House of Commons, if he had said things in themselves probable, he is not in the least to be believed.

My lord's next witness upon the same head of subornation, was one Murrel, a poor barber; and what says he? he testifies that Mr. Dugdale did offer him 50*l.* to swear against sir James Symons and some others. My lords, whether this be probable or no, we must leave to your lordships. We have called witnesses that prove him a man of no reputation, one that runs up and down the country, a kind of vagabond, and I think (upon the endeavours that have been proved to have been used as to others), it is no very hard matter to bring a man of his condition to say as much as he hath done.

The next witness is Samuel Holt, the blacksmith; and he tells such a story, that if it were true, would be some disparagement to Dugdale: And what is that? he says, that Dugdale sent a man and horse for him, to bring him to the Star in Stafford; and there offered him 40*l.* to swear that one Moore carried away Evers. My lords, how this story comes in, I cannot imagine; why Mr. Dugdale should

bear any ill-will to Moore, or what should induce him to intice this man to swear against Moore, or what else was in it, it doth not appear. But no matter what it was for; we prove against this man, by two witnesses, Rawlins and Lander; by the first, that he is a man of ill reputation, very zealous to support the Plot, and cry down Mr. Dugdale, saying, that he was a rogue, and all they were rogues that took part with him. And by the other witness Lander, that Holt did make an assault upon him, and would have killed him for being ready to appear against my lord Aston at his intended trial: So that he is a man that has more zeal than honesty: zeal in no good matter, namely, to hinder the truth from coming out against my lord Aston; and therefore we have little reason to wonder, nay, all the reason in the world to believe, that he says that which is untrue about Mr. Dugdale.

My lords, there was another witness, Mr. Lydcott, that said, he was a fellow of King's-college in Cambridge. He has offered no proofs that he was so; and truly it is very improbable he should be so: for I hope fellowships in the university, especially in one of the chief colleges (as this is) are bestowed upon more deserving, and less suspicious persons than he appears to be: A man that owns himself the continual companion and secretary of one so famous in the Popish party as my lord Castlemain is: a man that pretends he was never out of his company; and a man that owns, that two years since, he was taking of notes at a trial for this plot, not only for his own curiosity, but for the service of his lord, who was concerned in the accusation: that this man should be a fellow of King's-college, seems strange, and till it be better proved, will hardly be believed, nor will he deserve any credit. It is true, he doth acknowledge himself a protestant, and to be of the church of England, and educated, as he says, a Presbyterian; but when he was asked, when he received the sacrament last? I do not remember he gave your lordships any answer.

This witness says, that he was at the trial of the five Jesuits; and there Dugdale did swear, that he gave notice to Mr. Philips and Mr. Sambidge of sir Edmundbury Godfrey's death: and this they would make to be a great fault in Dugdale, because neither Philips nor Sambidge remember it. Now whether Dugdale swore true in that or no, does not depend upon Dugdale's own credit alone; but you have heard other witnesses have made it appear, that he did swear true: so that we need not say any thing more to this witness, nor to Gifford, who testifies to the same purpose; because that point, as to the report of the death of the justice of peace, is by other witnesses clearly proved.

And as to Mr. Sambidge, I do not wonder much, that he should say he did not hear it, because he could hardly hear what was said to him by the court, or any of the officers set near him on purpose. But my lords, I desire your lordships to take notice, that he was a very angry witness; he said, he had formerly had a

controversy with Dugdale, that Dugdale had cited him into Litchfield-court, and had there a suit against him for a defamation; and he said that against Dugdale, which, unless better proved, must needs make Sambidge much suspected: he said, that Dugdale was the wickedest man on earth, but what proof he offered of that, or whether he did instance in any one particular, I leave to your lordships memories.

My lords, there is another proof relating to Mr. Dugdale, not out of the mouth of a witness, but out of a paper, which I desire to give an answer to. It was an objection the prisoner at the bar was pleased to make to Dugdale's information, taken the 24th December, 1678, before the justices in the country, wherein he had said to this purpose; Presently after one Howard, almoner to the queen, went over, he was told by George Hobson, that there was a design, &c. This, saith my lord, is most impossible to be true: for you say, that immediately after the almoner was gone away, Hobson told you this, whereas Hobson went away with the almoner; and he came not to live with my lord Aston till many years afterwards.

This my lord is pleased to offer as a falsification of Dugdale's testimony; but, my lords, I do desire to observe, that this is an information taken before two justices of peace in the country; and if you look upon it, you will see it was written by a country clerk, and not very skilfully done. It is rather short notes of an examination, than a complete examination. And your lordships will please likewise to observe, that there is not really an expression that is clear one way or the other, but capable of two senses; that is to say, either it may import Hobson told him there was a design ever since the almoner Howard went away; or it may import, Hobson told him presently after the almoner went away, there was a design. Read but the words with a different comma, and it makes the sense one way or the other. Now it is plain, Dugdale could not intend that Hobson told him so as soon as the almoner went away, because Hobson went away with the almoner. And it was better to his purpose, that Hobson should tell him so after his return than before, for that shews the design had been long a carrying on.

Therefore it being a doubtful expression, that may refer either to the time he told it him, or to the matter he told him of; and being taken in the latter sense, the objection faileth; I think this matter can have no weight at all in it to falsify a positive testimony.

My lords, The next witness we did call, and which was objected against by my lord, was Dr. Oates; and truly I must observe, that his lordship was not pleased to call any one witness materially to falsify Dr. Oates's testimony; and I must likewise observe, that Dr. Oates is, in the material part of his evidence, supported by other evidence.

When Dr. Oates gave evidence at former trials, it was the common discourse of the men of that religion, that Dr. Oates had never been

in Spain, nor had ever any credit with the priests or jesuits, but was a mean contemptible person, and that all he said was improbable. But now your lordships have heard that Dr. Oates, even by the testimony of Dennis a popish priest, (that is so to this day) was in Spain, was, according to what he saith, brought up in the college of the jesuits; that he was in such esteem there, that the archbishop of Tuam commended him very much in the presence of Dennis, and spoke of what expectation there was of him. So that Dennis the priest doth support Dr. Oates in some parts of his evidence. I do not speak of that part of it which concerns this particular lord, but of his testimony touching the general Plot.

There is another thing wherein Dr. Oates is supported by another witness, and that is the esteem and intimacy he had with the jesuits. For Mr. Jenison swears, that Dr. Oates was a man in esteem among them, that he was at Ireland's chamber, and had discourse with Ireland, and did appear to be frequently employed by them. And I take these two witnesses to be a great support to Dr. Oates, as to the general matters which he evidenceth of the Plot.

What now doth my lord object against Dr. Oates? He called no witnesses against him, but only an honourable earl of this House, I think I may name him, the earl of Berkeley; and that which his lordship was pleased to testify against him, was;

Obj. That being examined at the House of Lords after he had given a long evidence against many persons, he was asked this question, Whether there were any more persons of quality he could speak against, or could accuse? and he said, No.

Ans. First, your lordships will be pleased to observe, that this was after he had accused my lord Stafford; my lord was secured in the Tower long before that upon Dr. Oates's testimony, and so he could not exclude this lord. But that which it is brought for (I suppose) is to make him a person of no credit; for after he had said this, he proceeded to an accusation of the queen. My lords, I humbly conceive this may receive a very fair answer. For,

First, my lords, I appeal to your lordships memories (for, I think, the matter was before you all, or at leastwise before some of your lordships), that the accusation which Dr. Oates made of the queen was not positive, nor of his own certain knowledge; but words which he heard spoken in a room in which he was not himself, but coming in afterwards, he saw the queen was there. So it was not positive, but circumstantial proof, and questionable whether what he testified would amount to the proof of one witness.

And I must observe in the second place, it might not be so clear to Dr. Oates, whether the queen were a person capable of an accusation, so as to be proceeded criminally against; the king and the queen are to some purposes

but one person in law. It is true, some queens have been tried for treason; but whether Dr. Oates understood that she might be brought to a trial, may be a question.

But that which I rely upon as an answer, and which I desire may be considered, is, that Dr. Oates had given an account of a great many persons, and a great many things he had sworn against several persons, some of which were executed, some to be tried; and his Narrative against them, and of the whole Plot, consisted of a great number of particulars. Here is a question comes to the doctor on a sudden, 'Have you any more to say, or can you speak against any other?' It is possible a man that had said so much, and of so many, might not upon an instant recollect whether he had said all, or against all that he could say: nay, it is easily to be imagined he could not on a sudden comprehend all he had said or could say. Therefore that the answer of a man to such a question, put suddenly to him, having so much in his mind, and having said so much, should be taken so very strictly, and to hold him as perjured, because he did not at that instant time remember this particular of the queen, I think it a severe construction.

His lordship is pleased further to object against Dr. Oates, that he is of no credit: Why? Because he went to be of the Romish religion, and so was of that religion which is idolatry: I suppose his lordship will not call that religion idolatry another time, and in another place: but it serves his lordship upon this particular occasion, to call it so. But suppose Dr. Oates did, out of levity, or for want of being well grounded in his own, turn to another religion, he is not the first man that hath done so: there have been men of great fame in our church, and of great learning too, that have changed their religion more than once. I think he that knew that famous man Mr. Chillingworth, could not but know he was first a Protestant, and afterwards a papist, and afterwards a Protestant again: so that unless my lord could accuse the Doctor of some great crime or immorality, it will be hard, that the matter of changing his religion should hurt his testimony. I am sure, it was happy for us he did change; without that we had not had the first knowledge of the Plot, nor of many particulars which he could not come to know but by occasion of that change.

My lord was pleased to object, that the Doctor was a man subject to passion; and he brought in the lieutenant of the Tower, to speak of some hot words that passed between them. My lords, I will allow the Doctor to be a man of passion; nay, if my lord please, a man that is not of the deepest reach; but your lordships will observe, that passionate men are not often malicious; and that a man who is not of a deep judgment, could never have contrived and invented a Narrative, consisting of so many particulars, and they so coherent, if they were false. And if his Narrative be not true, he must be endued with more subtilty and wicked

policy, than upon trial we can find in him. So that what my lord hath objected as to his infirmities, is no diminution to the truth of what he says, but rather a confirmation of it.

My lords, The last witness whom my lord endeavoured to impeach is Mr. Turberville; and against him my lord thinks he hath a great advantage: but, my lords, by that time I have reminded your lordships of what hath been already said, and what was before proved in answer to my lord's objections against him, Mr. Turberville will stand as clear in this court, as any of the former witnesses.

Your lordships will be pleased to take notice, That Mr. Turberville was at the beginning, when he came to the House of Commons, a little uncertain as to matter of time: for when he had made in his affidavit, the times to be 1673 and 1676, he craved leave to alter it to 1672 and 1675. Surely, my lords, this will be far from being any imputation to Mr. Turberville; because, first he gives the reason, how he came afterwards to understand the time better, by viewing his papers and letters; he likewise gives you an account, and so did sir William Poulteney, when he did this, the next morning, before any man in the world had questioned him upon it. So that it shews the man's care and conscience both, when he is so careful, even in matters of the smallest moment, to set things right.

There is no man that knows the practice of the court of Chancery, but knows, that for a man to mend his answer after it is sworn in a point of time, or other circumstance, is no disparagement to him: nay, to do it, before the other party did except or take notice of it, is no objection, but rather a reputation to him: and your lordships will be pleased to take notice, that one of the times rectified, is of seven or eight years, the other of four years standing. And I do not think the worse of a witness that is not positive in a time, when that time is so far elapsed.

The next matter is, That this man was never with my lord: how was that proved, for it is a negative? Why, my lord is pleased to call his own servants, Furnese, and the boy Leigh; and what say they? They never saw any such man. My lords, I desire your lordships to observe, That Mr. Turberville was introduced by greater confidants than either of these servants. Mr. Turberville came in the company of the priests, and you hear the boy deny that he knew Anthony Turberville, but not that he knew father Turberville; nor doth my lord himself deny it, nor doth either master or man deny my lord's correspondency with the other two fathers. And it might be very easy for Mr. Turberville to come in the company of the priests, and the boy not take particular notice of him. And it is as little an objection what my lord says that Turberville himself said he did not know the boy: how many are there that come to the houses of another, and unless they lodge there, or dine there often, do not remember the servants of the house? And it is no greater an

objection to say, the servants did not know him: the priests they knew him; they were his guides; they were the likeliest to gain him admittance, not only into my lord's house, but into my lord's heart.

My lords, your lordships will be pleased likewise to observe, they have also gone about in very little matters to disprove Mr. Turberville; as that whereas he says, he was not well used by my lord Powis and his lady, when he returned from Doway, that he was very well used: and as one witness (I think Minthead) says, he was permitted to lie in a room near my lord's chamber. My lords, Mr. Turberville does not pretend to say, that my lord Powis shut him out of doors; but what reproaches or unkind words might pass between them in private, Minthead might not hear: so that to say, that he lay in my lord's house, is no answer to this matter. And for the other witness (his brother) that speaks of his kindred's being kind to him, that, under favour, does not at all disprove him; for, what was the kindness? His brother and sister were so kind as to give him 7*l.* never to see him more; a great matter, when a younger brother lies upon a family, that the trouble of his stay there is redeemed at the price of 7*l.* This was a very great kindness, a kindness indeed that one would scarce deny to a stranger, if in poverty. I mention the least matters I can remember, because I would have nothing stick with your lordships.

Then secretary Lydcott (the fellow of King's-College) was called again; but indeed, my lords, he was so out in his arithmetic, so mistaken in the year, and used the New-Style (the Romish) so much more than ours, that it makes me suspect he is not so great a protestant as he pretends to be. He promised us his book, which he was not then prepared to produce; but because we do not hear of him, nor of his book since, we say no more of him.

My lords, John Porter, my lord Powis's butler, comes next, and what does he tell your lordships? Why, that Mr. Turberville came not to Powis house, (it seems he did not appear there) but that he came to a victualling-house hard by; and he telling Turberville he must know something of the Plot, he denied that he knew any thing. To the same purpose, or rather to less, and more improbably, does Yalden (the gentleman of Grays-Inn, as he calls himself) testify, who says, that walking in Gray's-Inn walks, he had a discourse with Turberville; and that he then swore, there was no trade good now but that of a discoverer; and damned himself because he could make no discovery. Truly, my lords, this looks in itself to be something prepared for the purpose: It is not probable, that a man that should use those horrid oaths, and should have such a mind to be a discoverer, should disable himself ever to be so by swearing he knew nothing.

But I will not only answer that matter, with saying it is improbable; but I shall desire your lordships to remember, that Mr. Powel, a gen-

tleman of the same house, and of good reputation, does swear, that Turberville did acquaint him, that he could discover a considerable matter; and this was above a year since. And Mr. Arnold, a member of the House of Commons, does confirm it, that he did several times acquaint him, that he could make an important discovery; and gave him several reasons why he thought not fit to do it at that time, because of the dangers which might arise from some great men; and therefore till he had a more convenient opportunity, he would not discover. But as soon as the parliament sat, very early he did begin to discover: So that I shall oppose the testimony of Mr. Powel and Mr. Arnold, to the testimony of my lord Powis's butler and Mr. Yalden; the latter of whom speaks so improbably, and of a discourse half a year ago; whereas Mr. Powel speaks of what Mr. Turberville said above a year since, and Mr. Arnold of a longer time.

My lords, it hath been sometimes objected, that Mr. Turberville was a stranger to my lord; and it was too great a trust to commit to a stranger, too great a secret for a stranger to be acquainted with: My lord's design of the king's death was too great a matter to lodge with one, with whom my lord had no more acquaintance than he had with Turberville.

Your lordships will be pleased to observe who they were that did introduce him, and who probably gave the best character of him; they were the three priests: And I do not wonder when these priests had brought my lord up to such a purpose, that they should prevail with his lordship to give credit to, and deal with a man that was not very unlike in his circumstances to attempt such a business: For your lordships will observe, he was a man that was very stout; for against my lord's reflection upon him as to cowardice in deserting the army, Mr. Turberville hath produced the certificate of his dismissal, which gives him a very good character. Besides, he was a man indigent; and therefore I think there could not be a fitter man chosen for the purpose, if he had been so void of all grace as to undertake it; and that priests having gotten a man so qualified, as they thought him, were not likely to let slip such an opportunity.

But, my lords, to come to that which is the sum of the business, and which my lord lays more weight on than all the rest; and that is the affidavit which Mr. Turberville swore before the justices of the peace (which was, in effect, what he informed the House of Commons), and in that affidavit, besides his alteration of times (which I have spoken to already) it is objected, that he does say that which is manifestly untrue: For he says my lord came by the way of Calais, with count Gramont; neither of which my lord did do.

My lords, I will not mention the master of the yacht, nor the witnesses from the Admiralty, which make out, that my lord came from Dieppe, and not from Calais. Nor do I deny that my lord came by himself, and not with

count Gramont; and therefore it is most certainly true, that what Turberville swore, as to those two particulars, was not true. Yet if your lordships please to observe the circumstances, though what he swore herein was not true, it will appear a very innocent mistake.

For in Turberville's Affidavit he tells your lordships, That he came away without my lord to Dieppe, and came from Dieppe to England before my lord Stafford left Paris. Mr. Turberville tells you afterwards my lord came from Calais with count Gramont: Mr. Turberville could not possibly be thought to speak this of his own knowledge, because he does in the same Affidavit tell you too, that he came away before my lord, and had not his passage with him. So that, my lords, I desire you would observe, it could be no design of his to affirm this of his own knowledge: For if it were, he took a very ill course to disclose in the same Affidavit that he was absent, and so could not speak of his own knowledge. And, my lords, suppose a man did swear such a man and he were in such company, and that he came home and left the man there, and that afterwards the man said such and such things in that company; what should I say of this oath? I might well say the words of his oath were not proper, or that he was unwary in expressing himself; but I could not say, nor would any man justly be able to say, he had a design to make the world believe he heard him say so, because he swears in the same breath, he came away before the words were spoken. If Mr. Turberville had understood how strict and nice a man ought to be in expressing himself in an Affidavit, he would have said, (as he had been told) my lord came to Calais; and that count Gramont came with him, as he understood. It is true, he hath not put in those words; but I beseech you, when the matter itself will bear it, nay, when it is most apparent, that Mr. Turberville could have no other meaning than to relate what he was informed by others, and what he could not know himself; what corruption, what obliquity can there be in this oath? All that can be said, is, it was not cautiously worded; but it does certainly disclose so much in itself, that every one that hears it must say, That he did not take upon himself to swear it as of his own knowledge, because he tells you he was not there; so that it was rather want of knowledge how to express himself properly, than any corruption in his oath, of forswearing himself.

But, says my lord, how should he come to know this? Why Mr. Turberville said, he had a letter whereby he knew my lord would come by the way of Calais: But where is that letter? Is it necessary to keep, or does any man almost keep letters of no greater concernment than this, that my lord writ him word how he would go by the way of Calais, and this after five years, and after he was in the wars, and where I have heard he was taken prisoner? To be sure, he was much tumbled up and down from place to place. And under all these circumstances might not

such a letter be lost? But, my lords, I beseech you; are there not some proofs that look much this way, made out by another witness? Does not Mr. Mort tell you something of this nature? First, he agrees us to the matter of an English lord lying about such a street in Paris, he tells you he was with Mr. Turberville, and that he himself walked about Luxembourg-house whilst Mr. Turberville went to speak with that English lord: He does say, he believes his name was my lord Stafford, but he is not positive; and the times which he speaks of do agree with what Mr. Turberville deposeth. And there is one thing, which, though I should not mention upon any other occasion, because it was but a foolish joke, yet I shall crave leave to speak of it now. He tells you, That one day, while they were at Diep in expectation of my lord's coming, and hearing that he went another way, they had this piece of minute wit upon it, 'Cursed is he that relies upon a broken Staff.' Whereby, he thinks, was meant the name of Stafford. So then, I beseech you, if Mort say true, are not here footsteps, and a foundation whereon to ground a belief, that there was a correspondence between Turberville and my lord; and that Mr. Turberville had an information, that my lord would come by the way of Calais? And one thing more Mort says, That Turberville told him, if he would make haste to Calais, he might go over with my lord. And here I would observe, how should Mr. Turberville come to know that my lord went that way? And how should he tell Mort that he might go over with my lord from Calais, unless he had received some such information? Therefore, my lords, taking into consideration what is confirmed by Mort, and taking into consideration the whole scope of the affidavit, I cannot see that there can be any material objection against Mr. Turberville for saying, that my lord came by Calais in the company of count Gramont.

My Lords, I have done now with the witnesses, and I told you, as I went along, (because I would not trouble you with a double repetition) what evidence we have given in contradiction to those witnesses which my lord hath brought in order to defame our witnesses.

But, my lords, I am to acquaint you, That besides these particular answers, your lordships have had men of very great credit brought to testify the reputation of Mr. Dugdale and Mr. Turberville. As to Mr. Dugdale, we have brought men that have known him a great while; one hath sworn what opinion even my lord Aston himself had of him: For it seems he lived with so much credit there, that he would not believe any ill of him. You have heard from other witnesses how he did behave himself. It was objected sometimes, tradesmen were not paid; but what then? can a man pay without money? I believe there are some lords here, whose stewards are very honest men, and yet the tradesmen such lords deal with are not always readily paid.

He was, as you observe, believed to be in the

plot, and my lord's servants say he seemed much troubled about it; he went away upon that account, and was so much concerned, that he burnt his papers, which I make use of for two purposes, The one to shew that he did apprehend he was in great danger; the other to shew what was the reason why the letters and papers he speaks of are not now produced; because he looked upon himself, and them who were then his friends, to be in such danger by them, that he burnt them.

My lords, I know your lordships will take notice, that there hath been a very good account given you, how it was that Dugdale came to be prevailed upon to make a discovery of the plot; it was with great difficulty; there were indeed persuasions used by some of his friends to bring him to it. The justices, as they themselves have sworn, endeavoured the same thing, but all without success. Then the coroner, Mr. Southall, (who though he was no great, yet seems to be a very understanding man) takes him in hand, and he had the good fortune to succeed. I call it good, not only for Mr. Dugdale, but for the nation. I shall not trouble your lordships with the particulars of the arguments Mr. Southall used to him, but it is plain (if you believe Mr. Southall, whose credit is now supported by an honourable lord, and by a member of the House of Commons) that Dugdale did at the first time that he did make a discovery, depose as much in substance against this lord, as now he does. And from thence I desire to make one observation, and that is this:

It was impossible it could be a contrivance among the witnesses themselves to depose the same crimes against this lord; for Dr. Oates never knew Mr. Dugdale, till Dugdale was brought up, which was long after Dr. Oates's accusation of this lord; nor could Dugdale know what evidence Oates had given here, for Dugdale was a close prisoner in Stafford-gaol before Oates accused this lord, and long after. And yet the first evidence Dugdale gives against this lord, doth in substance concur with that given by Dr. Oates. So that since there could be no intercourse nor conference between them, but as much distance as from the prison doors in Stafford to London, there could be no contrivance between them, for both of them to accuse this lord of the same matters. And this I desire may be looked upon by your lordships as a matter of great weight to support the credit of the whole evidence. And Dugdale does seem to be a person of an unquestionable credit, and every one that hears him must observe, he does give his evidence with great modesty; and all probability of truth.

There is another thing, my lords, that I would pray your lordships to observe, These witnesses, Mr. Dugdale and Dr. Oates, do give such an evidence as is impossible to be given, unless it were true; for other witnesses when they are put out of the road, and asked questions they did not expect, are commonly to seek, and must pump for an answer, and then

answer with great difficulty and wariness. But these two witnesses do not only answer with readiness when you ask them any questions, but what is contained in every new answer doth add a further probability and confirmation to what they said before. And I must needs say of them, I think it were impossible for any men in the world to contrive a story of so many particulars, and so consistent in every part of it, and yet the same should be false; and which is more, after so many trials, not one material circumstance of what they say contradicted by any solid proof.

My lords, There may be other particulars which I may have forgotten; I know not whether I observed that my lord objected that we do not prove him a papist: I hinted something before about his coming to mass to my lord Aston's at Tixall, which is one sort of proof of his being of the Romish religion. Besides his perpetual conversation with that party, and his endeavours to promote their religion and designs, all which have been fully proved: I think also my lord deserted the House of Peers, for that he would not take the test appointed by the late act; your lordships best know whether he did so or no. But, my lords, let him, if he will, be a Protestant for this time; let that be supposed: If he were a Protestant, and should be guilty of the offences proved upon him, he would not deserve more favour from your lordships.

My lord hath been likewise pleased in further proof of his innocency to alledge, that after the Plot was discovered, he had seven posts time to have escaped, and yet never fled. My lords, It is true he might have fled, so might Coleman too; that Coleman that left so fatal an evidence against himself and all his party under his own hand, and for that had reason to believe himself very guilty: And so might the Jesuits have escaped too, but that they had hopes the oath of secrecy, and the means they had used to conceal their damnable designs, would have been a sufficient security against revealing it. They had that opinion of their priests, and of the fidelity and constancy of those that had been seduced by them, and recommended by them, that they apprehended nothing less than a discovery. And those other persons that were executed, did all stay about the town after the Plot was discovered, as well as this lord staid in the country.

My lord did very much complain, that our witnesses were not positive in point of time: I think Dugdale was positive enough as to the time of the offer of 500*l.* but for other matters, he would not confine himself to a month: He talked of the latter end of one month, and the beginning of another, I think he is the more to be believed; for I conceive, unless a witness hath some notorious circumstance in his memory to satisfy him about the certainty of the time (such as was that of the foot-race, as to the time of the offer of 500*l.*) it is rather a mark of presumption than of sincerity for a witness to be too positive as to the time. And is there

so great a distance between the latter end of one month, and the beginning of another, that a witness need to be positive as to the very day? But, says my lord, You talk of the beginning; it was the 12th of September ere I came thither. Does not every man count, that till the middle of a month it is the beginning of a month? Sure in common speech it is so. Therefore I look upon that as a matter scarce worth the mentioning; I am sure, not worth the serious answering.

But, my lords, I must observe thus much, That what my lord complains of as a fault in our witnesses, his own witnesses are guilty of. For I appeal to your lordships, when they came to speak of times, whether they did not talk at a distance of a month or months, and sometimes of years, and were less certain in point of time than ours.

But, says my lord (for I am still answering his objections, and you must take them as I find them), here is mention made by Dr. Oates of letters, of many letters; shew me some of those letters: Shew me the letter you carried to the post house. My lords, were those letters written to Dr. Oates? Did they belong to him? Or is it possible that my lord's letter delivered by the Doctor to the Post-house, should now be shewn by the Doctor, or that the letters writ to the Superior of the Society of the Jesuits, should be produced by one that was a novice of that society? Does Dr. Oates talk of one letter written to himself? You will then, I suppose, see no reason to expect those letters should be produced by him that were not written to him, and the custody whereof belonged to others.

My lords, I must observe to you, that there have been great endeavours used to invalidate our testimony; we have had witnesses called against witnesses, and my lord hath had that advantage to do it, which perhaps was never given in any case before, and which I hope will never be again. The evidence hath been printed and published to the world, before it hath been given. I say not that it was not necessary in this case, which was a national cause, and the cause of our religion; but I do say, it would not be fit to be done in other cases; for the notifying of the evidence is the way to have it falsified and corrupted.

But notwithstanding all these advantages, my lords, I appeal to your lordships memories, what considerable contradiction hath been given. It is true, some witnesses to that end have been brought before your lordships; but those witnesses have been rendered incredible by more credible persons; and I would desire your lordships to observe, that though my lord hath failed of proving any subornation in our witnesses, yet we have proved much subornation endeavoured by his agents.

Your lordships have the record against Reading before you; and what reference that hath to the lords in the Tower, every one does remember, and my lord is mentioned in that record. And I might likewise mention the busi-

ness of Cellier, and what therein related to the lords in the Tower. And I will name but two witnesses more, that have been attempted upon in this nature: There was Wright the barber; all the applications were made to him that could be; money given, letters writ, insinuations that he was not to swear, he was but to write, and that was easily done; or if he would be so kind to swear it, he should never come into open court, only go before a justice of peace; so that your lordships will observe by what steps and degrees men were endeavoured to be suborned. And then Launder tells you what was offered to him to perjure himself, how he was brought to Tixall, and what endeavours were used to make him swear against our witnesses.

These things are plain, both by records and particular proofs upon oath. But, my lords, lest we should want proof of all, this very lord (I pity him for it) hath been so unfortunate as to bring that paper out of his pocket, which Wright says he had money to frame, and was to swear to. It seems my lord had the command of it, it seems to have been prepared for such a good time as this, and the producing of this paper is as full a confirmation of this point, as can in reason be expected.

My lords, I have been, I fear, too long already; and yet, I fear, I have omitted as many particulars as I have mentioned.

My lords, the evidence is so strong, that I think it admits of no doubt; and the offences proved against my lord and the rest of his party are so foul, that they need no aggravation. The offences are against the king, against his sacred life, against the Protestant religion, nay, against all Protestants; for it was for the extirpation of all Protestants out of these three nations. I mean not of every one that is now so, but of every one that would have continued so, every one amongst us (if these designs had been accomplished) must either have turned his religion, or turned out of his country, or have been burned in it.

It is a design that appears with so dreadful a countenance to your lordships, to this great assembly, and to the whole nation, that it needs not any words I can use to make you apprehend it. If the matter be fully proved (as I see no reason to doubt but that it is), I am sure your lordships will do that justice to your king and country, as to give judgment against these offenders, which will not only be a security to us against them, but a terror to all others against committing the like offences.

L. Stafford. I beg your lordships to know, whether you will give me leave to speak a word? And, my lords, I shall not speak any thing but as to a mistake sir William Jones hath made in two or three things. Pray, my lords, may I put you in mind of them?

Sir W. Jones. If there be any mistake, pray tell us what it is.

L. Staff. First, my lords, he did omit telling you that Mr. Turberville's brother did say he came in 1671 to my lord Powis's. Secondly,

he says, I have proved myself a Papist, because I have not taken the test: My lords, the test was since I was in the Tower, and whether I will take it or not, I do not yet know, till it be offered me. The third is this, that this letter was in my pocket, which I produced to you: My lords, I knew nothing what was in it, it was given into my hand as I stood here at the bar. Fourthly, he said, Hobson did go out of England with the almoner; he did not so. Another thing he says, that I said Oates was an infamous person, because he went to a church that I said was idolatrous; I only said, it was so adjudged by act of parliament. I find, my lords, these things he is mistaken in; and that, my lords, made me very willing to put you in mind of them.

L. H. S. Gentlemen, I would ask you, whether you take any notice of the points in law?

Sir Fr. Winnington. After the fact is stated, my lords, we shall.

[Then Mr. Powle, also one of the Committee appointed to manage the Evidence, proceeded further in summing up the same:]

Mr. Powle. My lords, the learned person that spake last, hath left very little for me to say in the summing up of this evidence: But because this noble lord hath been pleased to alledge several reasons, from whence he would infer at least a great improbability, that he should be guilty of the treasons whereof he stands accused, I shall crave your lordships' patience, that I may give three or four words in answer to those particulars.

My lords, in the first place, this noble lord was pleased to begin, and afterwards to continue his defence, with making protestations of his own innocency: We very well know your lordships sit now in the seat of justice, and whatsoever credit or regard your lordships please to give to the protestations of a peer in another case, your lordships will proceed here only according to your proofs and your evidence (*secundum allegata et probata*), and therefore all we shall say to this, is, that we hope our proofs are so clear and evident, as will leave no room to your lordships to believe this noble lord's protestations.—In the next place, my lord is pleased to alledge, and withal to lay some weight upon it, the voluntary surrendering of himself to justice; and he laid it down as a rule, that as flight is an argument of guilt, so the surrendering of a man's self to the trial of the law, is an argument of innocency.

My lords, we admit the rule generally to be true, but in some particular cases it may be otherwise; for a man that is not very confident of his own innocency, may yet be very confident of the strength of his party; and whether the consideration of the circumstances of affairs, as they then stood, and the power and prevalency of the Popish party at that time, might not reasonably create such a confidence in this noble lord, we must leave to your lordships judgment.

My lords, we do conceive, that those persons who contrived sir Edmundbury Godfrey's murder, had so great confidence in the favour and protection of some of their party, that they thought themselves able to outface justice. And we verily believe they intended it as an example, to deter all men from meddling so much as with the taking an examination concerning this horrid Plot.

My lords, I desire to be understood aright in this: I lay nothing of the death of sir Edmundbury Godfrey to the charge of this noble lord; I only use it as an argument of the presumption of the Popish party at that time.

My lords, in the next place, my lord Stafford did observe from my lord Coke, that in the trials of treasons we ought very much to guide our judgments by the nature and circumstances of the fact (the concomitants and subsequents, as he termed them) with reference to the person accused, whether they were likely to induce or deter him from such an attempt; and here he was pleased to raise some arguments from the whole course of his life, and did desire your lordships to consider those circumstances therein, that might make it improbable or impossible that he should commit a treason of this nature.

He desired also your lordships to remember, that he was descended from an honourable family, and that his ancestors were very worthy and very deserving persons, and such as had often ventured their lives in defence of their country: and here he did likewise mention his own services to the last king, and our present sovereign in the late wars.

It is not my part, nor will I derogate any thing from the merits of this noble lord, much less from the honour of his family: But in answer to this, we shall desire your lordships to consider, that this noble lord (however he is pleased to disown it at present) is notoriously known to be a Roman Catholic (as they call themselves), and such we conceive we have sufficiently proved him to be, in the course of our evidence: And as there is nothing in the world so much as a misguided conscience, that can engage the best of men into the worst of actions; so we think the principles of that religion are such, as are more likely to pervert men from their duty and allegiance, than any other religion or persuasion whatsoever.

And if the zeal of this noble lord did engage him to endeavour the establishment of that religion in this kingdom, we may easily believe that his reason did suggest to him the means by which it must be effected, which could be no other but blood and confusion.

My lords, the last thing I shall take notice of, is, what my lord Stafford was pleased to say in general, as to the doctrine of killing and deposing princes, which his lordship was pleased to call a private opinion, and not the doctrine of the Church of Rome.

But by the way, my lords, give me leave to observe, that this noble lord did upon this occasion fully own (and I much commend his

ingenuity in it) the reality of the Gunpowder-Treason, since we know how much that party have endeavoured to render it incredible: and as length of time hath so fully manifested the particulars of that execrable design, that it hath brought such as are of that persuasion to confess the truth of it; so we hope this day's trial will convince both the age we live in, and all posterity, of the truth and reality of this present conspiracy. But to go on with that point from which I did digress: I am not, I confess, much versed in the canons and councils of the Church of Rome; but, my lords, this I know, the most famous and celebrated writers of that Church, especially of the Society of the Jesuits, have publicly avowed and maintained this doctrine. And we know in all times, when there hath been occasion to put it in practice, it hath never failed to have been attempted; and we likewise know, that the Church of Rome and the Pope have always avowed the acts when they have been done. From all which we may very reasonably conclude, that it is the doctrine of that Church so to do.

But my lord is pleased to say, and I admit it for truth, That a great many private writers do hold to the contrary; I believe it to be so, but I do also believe, that it is the policy and artifice of the church of Rome, to leave this point of doctrine in some measure undetermined, that so they may make use of it as the occasion serves; for if it succeeds, then it is owned and justified; if it miscarry, then the doctrine is but a private opinion, and the plot but the practice of particular persons that are either desperate or discontented. And I am fully of opinion, that this horrid conspiracy which is brought this day to judgment before your lordships, wants nothing but success to canonize it.

My lords, as to what concerns the evidence, it hath been so fully stated to you, and the objections that were raised to invalidate it, so well answered, that I will not trouble your lordships with any repetition of what has been said already: All we have further to desire, is, That your lordships will please to take our evidence into your consideration, and to do thereupon what shall be agreeable to justice.

Serjeant Maynard. My lords, as to the matter of fact I shall say nothing but only this, (and I wish it may be spoken with gratitude to Almighty God) that the discovery of this plot is rather the work of God than man. It was first his act, in prevailing upon Oates to make the discovery; and when he stood single almost, what came to support his credit but the letters of Coleman? which were like a tally to what Oates had said, for what Oates informs is in a great part made good by his letters. Then when Godfrey was murdered, how came that discovery out, but by the voluntary confession of one engaged in the whole plot; I mean Bedloe? So that though these men had engaged themselves by wicked oaths, yet their own consciences witnessing against them in themselves,

they could not forbear coming in to testify against themselves. I shall say no more, than that we ought to acknowledge the hand of God in the discovery with great thankfulness; for it is he, and he alone, that out of his own grace and goodness hath done it, and thereby preserved the life of our prince to us, and in him us too.

But as to the matter in law: My lord has been pleased to mention first this, That there is no overt-act. I wonder that my lord should be so much mistaken. When it is charged in the articles, and proved to his face he received a commission, is not that an overt-act? He is charged in the Articles of Impeachment with contriving the death of the king, and being at several meetings and consults about the king's death, and hiring persons to kill the king; and are these no overt-acts? Therefore, as to that, my lord is mistaken.

My lords, another exception that is taken, is, That there is no indictment. I conceive that an impeachment of the House of Commons is more than an indictment. And there cannot be any doubt of that, the impeachments of the House of Commons having always been received and proceeded on by your lordships.

But that which is most insisted upon, is, That this charge that is made against this lord, was presented in another parliament. It is true, but under favour, what is once upon record in parliament, may at any time afterwards be proceeded upon.* It is a sudden objection, but I conceive it hath been done: However, in a case of this nature, when the life of the king, when our own lives, and our nation, and our religion lies at stake, if there were not a precedent, I hope you would make a precedent. But under favour, reason is for it, the charge is before you, the proof is made, and we pray you will judge according as the evidence hath been.

Sir W. Jones. My lords, as to these matters of law, I think they are of so little difficulty, that my lord will not desire to have counsel assigned him; I am sure his counsel will not desire to speak to them.—For this last matter which Mr. Serjeant spoke of, and which was first named by the prisoner, I desire your lordships to consider what it is. Says my lord the prisoner, there was an impeachment begun in the Long Parliament, and this is now the third parliament in which I am brought to my trial. It is very true, there was a general impeachment in the Long Parliament, the particular one was in the last, and this lord was pleased to plead in the last. It may be he was not so well advised then as he is now.—But, my lords, how can this be a doubt, when your lordship

have resolved, and have sent it down to the Commons, and it is there entered in their book, as the law and constitution of parliaments, that not only impeachments, but all judicial proceedings continue from parliament to parliament, in the same state that they were in at the rising of the last parliament.—This is now become the law of the House, and it is under favour, being so, the law of the kingdom; and you having thus declared it, and sent it to the Commons, I hope the Commons had very good reason to proceed upon this impeachment at this time.—The next matter is concerning the overt-acts; I think there are sufficient overt-acts in proof, and sufficient in the impeachment. Will any man deny that the receiving a commission to be paymaster of an army is an overt-act? Will any deny, that the sending for the witness, and offering him money in order to hire him to kill the king, is an overt-act? And (which answers to all) will any man deny that the meeting and consulting of several men together, about killing the king, and changing the government, is an overt-act?—My lords, these are all overt-acts; and I cannot but think it was without advice of my lord's counsel that he made these objections: for indeed these several overt-acts are laid in the impeachment as fully as they are made out in proof.—My lords, There is another objection that my lord is pleased to make, and that is, that there is but one witness to a particular fact.

L. H. S. Ay, what say you to that?

Sir W. Jones. That, my lords, is of little weight, with submission; for our impeachments, and our proofs run to this, that my lord had a design and intention to destroy the king: This was to be done by force, and this was to be done by secret assassination. Now if several witnesses come and prove each a distinct act, under this head of killing the king, it is so many proofs or witnesses to the treason.—For, my lords, if a man shall intend to kill the king, and shall buy a knife in one county at one time, and send for a man out of another county at another time, whom he shall hire to kill the king, and these distinct acts proved by several witnesses; if they concur to the same general treason, they are all but parts of that, and so are so many witnesses to the whole. And so I am sure it was resolved in the case of others of the conspirators in the Old-Bailey, and before that in the case of sir Henry Vane.* But, my lords, in this case here is first a proof that he accepted a commission, which I do not use as an act for the levying of war only; but as a design to change the government, and destroy the king. Here is meeting and consulting how to do this wicked work, I mean to kill the king; that is another overt-act. Here is offering money to one of the witnesses for that end; that is a third overt-act. And there is attempting another of them, though not with money, yet with promises of reward in general: that is another overt-act: All which are to this end,

* See the Case of the duke of Buckingham, earl of Bristol and lord Conway, *ante*, vol. 2, p. 1446, and the Note there; and the Case of Warren Hastings, A. D. 1789, *post*. See also lord Danby's Case in the same year, and Mr. Garraway's Speech and the Note to it, in lord Clarendon's Case, vol. 6, p. 351.

* See vol. 6. p. 119 of this Collection.

the killing of the king. And I am sure of it, your lordships cannot but receive satisfaction from my lords the judges, that it hath always been so held, that though there need two witnesses to prove treason, yet there needs no more than one to one act, and another to another, if the several acts fall under the same head of treason.

Sir F. Winnington. My lords, I crave your patience but for a word or two, and this noble lord will have little reason to say his objections in point of law are of any weight. I confess he had said a great thing, if it were true, that the articles of impeachment did not alledge an overt-act; for then indeed they had been apparently defective: But, under his pardon, that is not a point of law, but a point of fact. Let us therefore resort to the articles themselves: In the second article it is alledged, that he, with the rest, did most wickedly and traitorously agree, conspire and resolve to imprison, depose and murder his sacred majesty, and to deprive him of his regal state and government. And then the same article alleges farther, that they did contrive and consult to effect the murder of the king, by shooting, by poisoning, and by stabbing. All these particulars are expressed: so that when my lord said the articles were therein defective; all we can say, is, that he was misinformed.

My lords, there was another exception taken, That this is the impeachment of another parliament. I must not now repeat how this point was agreed by both Houses at a conference; but it was then declared, upon search of precedents in all ages, That it was the law of parliaments, which is the law of the land, that if once an impeachment by the House of Commons were lodged in the House of Lords, though that parliament were dissolved, the impeachment remained in the same state. It was the cause of the Commons of England, who only change their representatives in a new parliament.

It has been also objected, that this prosecution ought to have been upon an Indictment: As if an accusation of the House of Commons, who are the grand inquest of the nation, were not as effectual to bring offenders to justice, as the finding of a particular jury.

My lords, I should wonder to hear this objection made, were not my lord to be easily excused for his knowing the law no better. None who know any thing in the law, would have urged such a thing; his counsel, I dare say, did not suggest this matter to him.

It is true, my lords, when a peer comes to be tried by way of commission, or in parliament when it is not at the prosecution of the Commons, there an indictment is first found in the proper county, and brought up before the peers by Certiorari, and upon that they proceed; but whether the party be a peer or commoner, if he be impeached for many crimes, surely no one can deny, but that by the constant usage of parliaments the Lords have proceeded to trial, and have given judgment thereupon with-

out an indictment found: So that this exception will be of no force at all.

As for the remaining objection, That there are not two witnesses to prove any one overt-act, the king's person would be in no manner of safety, if that doctrine should be once allowed. Conspiring to kill the king is the treason laid in the impeachment, and the several overt-acts are so many several evidences of that treason. Words themselves, if they signify an intention to do an act, and express something to be done *in futuro*, are a sufficient overt-act, and a legal evidence of treason, then we prove by another witness, not words of encouragement only, but offers of money, and they are both to the same kind of treason, though not to the same act, and at the same time. And if there must be two witnesses to every single act, the king of England is not only in a far worse condition than any other prince, but than any one of his own subjects. Treasons may be committed every day with impunity, and unless the traitors be as great fools as villains, he shall never be safe from them, nor capable of punishing them.

I must say it, and I say it with commiseration to the condition of this noble lord, that his exceptions in law are as weak as the answers he has given to our evidence. We hope no doubt in law remains with you, and that we have given your lordships full satisfaction of the reality of the plot, and a convincing evidence of the great share which my lord Stafford had in it; and we humbly pray your lordships justice.

L. H. S. You do not take notice of one thing that my lord Stafford said this morning; that is, That the witnesses are not competent witnesses, because they swore for money, and that is fit to be spoken unto; not for the weight of the objection, so much as for the satisfaction of the auditory.

Sir F. Winnington. My lords, I had taken a note of that, but forgot to mention it. If my lord at the bar will say they have taken money to swear, that is purely a matter of fact which he ought to prove; and that which is said and not proved, ought to go for nothing: Let him prove his case to be so, and then we will give him an answer.

L. H. S. My lord Stafford, If your lordship can prove that they have had money to swear, your lordship urges that which will be material; but if it were only money to maintain them, that sure will amount to no objection.

L. Staff. My lords, I submit it to your lordships, whether Dr. Oates and the rest have not had great sums of money, besides their charges 10*l.* per week a-piece. But I desire your lordships to consider, and I appeal to many of your lordships, whether it has not been said that there was a defect in Coleman's and Langhorn's Trials, that they did not plead that; and if they had pleaded it, they must have been acquitted: I will name nobody, but I appeal to your lordships, whether some of you have not said so. But I desire your lordships

to admit me to plead by my counsel; if not, I submit it to you. I confess here is a piece of law that I never heard of before, that the House of Commons, and your lordships at a conference, have adjudged it to be the law of parliaments, That impeachments shall continue from parliament to parliament. If you will please to hear my counsel for me, so; if not, I submit.

L. H. S. What would you, or can you prove?

L. Staff. My lords, those things that I have given in to your lordships, I desire my counsel may be heard to.

L. H. S. Gentlemen, What can you object why he should not have counsel to argue his objections in law?

Sir W. Jones. My lords, I do think under favour, if a prisoner in a capital cause do desire counsel, he must not only alledge matter of law to introduce that desire; but that which he doth alledge must be also a matter of some doubt to the court: For if he do alledge matter which in itself is not disputable, he shall have no counsel allowed him. If your lordships are not satisfied that it is the law of your House, that proceedings upon impeachments do continue from parliament to parliament, we cannot answer that, it lies in your lordships breasts; it is not what we are to argue, because it is a matter that concerns the law and rules of parliaments. Is there, my lords, any doubt of any other point that is urged? Is there any doubt of this thing, whether if one witness speak to one point of fact, and another to another, upon the same sort of treason, but that these be two such witnesses as the law requires? I pray then, my lords, consider the consequence of that doubt: A man shall talk with twenty persons about a design to kill the king, in one and the same room, one after another, by taking them into a corner singly; and if ten, or all twenty come to prove it, here is but one witness to each discourse. This would be a matter of dangerous consequence, but I hope will remain no manner of doubt with you, nor is it fit to be argued.

As to the hiring of witnesses to swear, I think that can be no point of law till it be so proved in fact. Doth his lordship think, that when his majesty, out of his grace and bounty, allows a maintenance to his witnesses, that this is an objection to their testimony? Doth not every man allow his witnesses a maintenance, and yet it never was thought a thing to take away their evidence? It may be every one doth not give so large an allowance as the king, because his dignity is not so great. But can it be an objection to the House of Commons? Have we that are the prosecutors maintained them? If his majesty has been bountiful to his witnesses, what is that to this cause of the Commons? If my lord can prove any thing of bribery in us, as he has proved for us against himself, it may be an objection. But till that fact be proved, I hope there is no ground for a question in law; and if there be no doubt in law, I hope there will be no need of counsel.

L. H. S. My lord Stafford, What are the points you would have counsel to?

L. Staff. To all of them, my lords.

L. H. S. Would you have counsel to the first point, to argue what the law of parliaments is concerning the continuance of impeachments from parliament to parliament?

L. Staff. My lords, if you will declare the law to be as these gentlemen say, I must acquiesce.

L. H. S. Pardon me, my lord, I do not declare the law, but ask you whether you would have counsel to argue that point?

L. Staff. My lords, I do say there is no example of it: I know there have been impeachments, but no examples of impeachments continued from parliament to parliament.

L. H. S. Then in the next place, for I shall propose your objections to their lordships by-and-by, and desire their judgment in them, do you desire to argue by your counsel, that every overt-act ought to be proved by two witnesses?

L. Staff. I do, my lords; I desire my counsel may be heard to all the points I mentioned to your lordships.

L. H. S. Have you counsel ready to speak to these points now?

L. Staff. Yes, my lords.

L. H. S. Are they prepared to speak to them now?

L. Staff. They are, my lords.

L. H. S. If they be so, what hurt will there be in hearing of them?

Sir W. Jones. My lords, Whether you will hear an argument from counsel about the Law of Parliaments, I hope you will please well to consider.

Sir F. Win. My lords, We in the House of Commons do never suffer any counsel to tell us what is the course of our house, and the Law of Parliaments:† If your lordship think fit to allow it, it is in your own power; but we who

* In a Treatise "On the King's Power of granting Pardons in cases of Impeachment," written by lord Finch (the Lord High Steward for this Trial of lord Stafford) afterwards earl of Nottingham, which treatise was published in 1791, with evidence of its authenticity, is the following passage: "It is a mistake to say that impeachments depend from parliament to parliament." — In the Advertisement prefixed to the treatise so published in the year 1791, expressions are used which appear to intimate that in this Trial of lord Stafford, the Lord High Steward had delivered an opinion that Impeachments were not abated by dissolution of parliament. I do not perceive in this report of the trial any declaration of such opinion. It rather appears that previously to the Protestation of the Managers against "An Argument from counsel about the Law of Parliaments," the Lord High Steward was inclined to permit lord Stafford's counsel to argue the point.

† See the Case of Shirley and Fagg, *ante*, vol. 6, p. 1121.

are entrusted with the management of this cause by the House of Commons, have no direction to consent to such a thing.

L. H. S. We will hear counsel, to save time upon that point, whether in proof of a Treason for killing the king, every overt-act ought to be proved by two witnesses.

Sir W. Jones. If your lordships make a doubt of it.

Sir F. Win. And if the prisoner desire it.

Serj. Maynard. My lords, we shall not oppose it; but I shall wonder if any counsel do maintain it.

L. H. S. Are your counsel ready to speak to that point?

L. Staff. Here they are, my lords.

[*Mr. Wallop of the Middle-Temple, Mr. Saunders of the same society, and Mr. Hunt of Gray's-Inn appeared by the prisoner at the bar as his counsel.*]

Mr. Wallop. May it please your lordships, we are here commanded by your lordships to attend, that if any matter of law do arise upon a case proved, agreed, and judged by your lordships debatable, then in due time we are to conform ourselves to your lordships command, and argue those points for my lord the prisoner at the bar. But if your lordships do think that the points urged by my lord are not debatable in law, I have so high an opinion of your lordships judgment, and such a mean opinion of my own talent, that I shall not undertake to argue extempore in this great assembly, in a cause of so high a nature.

L. H. S. Look you, sir, you are of my lord's counsel.

Mr. Wallop. I am, my lords; and by the order of your lordships do attend here.

L. H. S. If you think it is an arguable point, you will have the judgment of my lords afterwards. Will you argue it now?

Mr. Wallop. My lords, I always thought, if a point be stirred in any court, and thought disputable, it should be stated and agreed before it be argued.

L. H. S. You are to argue for my lord, and to know the judgment of the court afterwards: Would you know our opinions before-hand?

Mr. Wallop. We would know what it is we are to argue, if your lordships please.

L. H. S. Why, if you are provided for it, you are to maintain, that by law every overt-act ought to be proved by two witnesses; if you are prepared, speak to it, and my Lords will hear you.

Mr. Wallop. It is true, my lords, there have been some public resolutions concerning that point, therefore I shall be the wavier what I say, in that: but, my lords, it is a matter that has been thought of great import one way or other; but I do profess at this time I am not able to undertake a solemn argument upon that point.

L. Staff. My lords, I am so far from delaying this cause, that I desire it may be argued now,

L. H. S. Then you are not ready to speak to it?

Mr. Wallop. No, my lords, I am not for my own part at present; for it is impossible we should foresee what would be the point: and to apply ourself to study an unforeseen case before it be agreed, stated, and judged worthy of argument, cannot be expected from us. I have always observed it in the King's-Bench, if the prisoner urge any thing, and the court think it debatable, they first agree and state the case, then assign counsel, whom they do not urge to deliver an opinion presently, but give them time to prepare for it.

L. H. S. *Mr. Wallop,* it is not believed that this point is moved, but by your advice that are of my lord's counsel, and you should be ready to maintain the advice you give; therefore, if you are so, speak. You have the protection of the court for the counsel you give in matter of law, and whatever advice you give, you should maintain by the law.

Mr. Wallop. Truly, my lords, it is a point that has, as I said before, received some settlement; but whether ever in this court, or no, I cannot tell. Therefore I did discharge my thoughts of providing any argument, till your lordships should have determined whether you will take the point upon the resolution in the courts below to be finally settled and determined.

Sir W. Jones. So then it is agreed to be settled in the ordinary courts.

L. Staff. I desire also it may be argued, whether words are an overt-act?

Sir F. Win. It seems the law is with us in case of a commoner; but whether it be so for a lord, is the question.

L. H. S. My lord Stafford, how comes it to pass that your lordship came prepared with objections, but not with counsel ready to argue them?

L. Staff. *Mr. Wallop* has given you an answer, I must stand by that.

L. H. S. Is it your lordships pleasure that we adjourn?

Lords. Ay, Ay.

L. H. S. This House is adjourned into the Parliament Chamber.

Then the Lords returned to their House in their order, and the committee of Commons staid in their places to attend their resolutions.

In an hour's time, the Lords returned, and my Lord High Steward being seated upon the Wool-pack, silence was proclaimed.

L. H. S. My lord Stafford, my lords, since they have been withdrawn, have considered of one point, of that point, chiefly which your lordship did move, touching the necessity of two witnesses to every overt-act as evidence of High-Treason, that is the point you have desired counsel to speak to, and that is the point your counsel desired to know whether it was a doubtful or debatable point before they would argue it; and hereupon my lords did withdraw to consider it. And my lords have directed, That all the judges that assist them, and are here in your

lordship's presence and hearing,* should deliver their Opinions, whether it be doubtful and disputable or no.

[Then all the Judges consulted privately together, and afterwards gave in their Opinions *seriatim*, beginning with the Lord Chief-Justice North, the Lord Chief-Justice Scroggs being absent.]

L. C. J. *North*. My lords, I do here deliver my opinion, and am clear in it, That if there be several overt-acts or facts which are evidences of the same treason, if there be one witness to prove one such overt-act at one time, and another witness to prove another overt-act at another time, both the acts being evidences of the same treason, these are two sufficient witnesses of that treason, and will maintain an indictment or an impeachment of treason. I never knew any doubt made of it in any inferior court of justice, and I have known it often resolved.†

L. C. B. *Montague*. My lords, where ever treason is to be proved, to every overt-act, two witnesses, as I conceive, are not required. If so be, there are two witnesses to several overt-acts, conducing to a proof of the same treason, I think they are witnesses in the judgment of the law, such as the statute requires.

Mr. Justice *Windham*. I am of the same opinion with my lord chief justice North, and my lord chief-baron, That if there be several overt-acts, done at several times, tending to the same treason, these several acts, being severally proved by several credible witnesses, though but by one witness at each time to each act, the said several acts, being evidences of the same treason, these are sufficient witnesses of that treason so proved, and will maintain an indictment, or, as I conceive, an impeachment.

Mr. Just. *Jones*. My lords, if several witnesses speak to the same kind of treason, although they speak to several overt-acts, and give evidence of several times, the one of them speaking to one time, and the other to another time, yet keeping still to the same kind of treason, they are such two witnesses as are required by the statute of Edward III. and this I take to be the constant opinion of the courts below.

Just. *Dolben*. My lords, I am of the same opinion, and I know it hath been many times so resolved; I have been present when Sentence hath passed upon persons by whom the same case hath been urged, and it hath been so resolved. And it hath been moved in Westminster-hall, and that was the constant opinion

of the judges there; particularly in the case of sir Henry Vane.* It was upon solemn debate resolved, and divers times it hath been held, That the same treason may be proved by two witnesses to several overt-acts, though one speak of words or actions that were spoken or done at one time and in one place, and another speak of words or actions at another time and in another place; these are two good witnesses in treason within the intent of the law; and if the law were otherwise, it were scarce possible to convict any man of treason, and therefore I take it to be very clear.

Just. *Raymond*. I am of the same opinion, That where several circumstances are brought to prove the same treason, one witness to each of the several circumstances is sufficient; and this, I conceive, hath been always the opinion of the judges.

Baron *Atkins*. My lords, I am of the same opinion. That there must be two witnesses in the case of treason, is a matter without question; but there are several overt-acts that may contribute to the effecting of that treason. If a man designs to kill the king, and buys powder at one place at one time, and a pistol at another place at another time, and promises a reward to one to assist him to do the thing at a third place and a third time; these are several overt-acts: But if the law requires that each be proved by two witnesses, I do not well see how any man can be convicted of treason. In the case of sir Henry Vane, and others, this very question was started, but was not thought worthy of debate: If it should be otherwise, it would touch the judgments which have been given upon this kind of proof; and what would the consequence of that be, but that those persons who were executed upon those judgments have suffered illegally? and therefore I am of opinion, that it is not requisite there should be two witnesses to every overt-act.

Baron *Gregory*. My lords, I am of the same opinion; it is treason to conspire the death of the king: Now each of the witnesses is a witness to prove that treason; the one says, he offered him such a reward, in such a place; that is one witness to prove that he conspired the death of the king; and another says, that he offered him such a reward in another place; that is another witness that he conspired the death of the king. For the party is not indicted upon one particular overt-act, but he is indicted for treason, in conspiring the death of the king; and each of the witnesses being to prove that, though they speak to several acts, they are good witnesses according to the law.

Baron *Weston*. My lords, I am of the same opinion with my learned brethren who have spoke before him.

Just. *Charlton*. My lords, I am of the same opinion; and I think truly it would be the easiest matter for a man to commit treason, and escape without questioning, if it should be otherwise. But this is the first time that I have

* See the Speech of the same Lord Steward in answer to a question propounded to him by lord Danby in the case of lord Cornwallis, and the Note to that speech; *ante*, vol. 6.

† See Love's Case, A. D. 1651, *ante*, vol. 5, p. 43. The sixth point resolved preparatorily to the Trials of the Regicides, A. D. 1660, *ante*, vol. 5, p. 917. East's Pleas of the Crown, ch. 2, s. 63, 64, 65, and the cases there cited.

* See vol. 6, p. 119.

heard it hath been made a question, that to the same treason there must be two witnesses to every overt-act. It hath been adjudged always according to the law, that to prove treason there must be two witnesses, but to an overt-act there needs but one.

L. H. S. My lord Stafford, by the uniform opinion of all my lords the judges, there is no colour to doubt the law in that point which you desire to argue; so that as to that point you must rest satisfied, you are not to have counsel to speak to it: for the rest, I have no commission yet from my lords to say any thing.

L. Staff. Will your lordship give me leave to say one thing to what I have heard? I would answer, if I might, only to one Judge; I think they call him judge Atkins.

L. H. S. Your lordship may say what you please.

L. Staff. My lords, I hear a strange position, I never heard the like before in my life; and it is what he said: if I am in the wrong, I beg your lordships pardon, and his too. He told your lordships the reason why the law should be so, was because else a great many of those persons that have already been executed, must have been acknowledged unjustly cut off and put to death; that is an argument I hope will not weigh with your lordships or any body; for it is better that a thousand persons that are guilty should escape than that one innocent person should die*; much more then, that it should not

* "All presumptive evidence of felony" says Blackstone, (Comm. Book 4. chap. 27. vol. 4. p. 353) "should be admitted cautiously; for the law holds, that it is better that ten guilty persons escape, than that one innocent suffer." This maxim is contested in the "Principles of Moral and Political Philosophy" of the late archdeacon Paley (see vol. 2. p. 310, of that work) but it has just now (June A. D. 1810) been vindicated by sir Samuel Romilly with admirable clearness and strength of argument and with equal power of eloquence. The objections of Paley are fairly and fully stated, and answered, as follows:

"The maxim that it is 'better for ten guilty persons to escape than for one innocent man to suffer,' is mentioned with approbation by Mr. Justice Blackstone, but is contested by Dr. Paley. 'If by better,' he says, 'be meant that it is more for the public advantage, the proposition I think cannot be maintained. The security of civil life, which is essential to the value and enjoyment of every blessing it contains, and the interruption of which is followed by universal misery and confusion, is protected chiefly by the dread of punishment.' By the dread of punishment, it is true, but of punishment as a consequence of guilt, not of punishment falling indiscriminately on those who have not, and on those who have, provoked it by their crimes. The security of civil life is undoubtedly the first object of all penal laws; but by nothing can that security be more grievously interrupted than by the innocent suf-

fering for the crimes of the guilty. It should seem from the animadversions of Dr. Paley, that he imagined that those who have adopted this maxim, treat the escape of ten guilty persons as a trivial ill, whereas, they deem it an evil of very great magnitude, but yet one less destructive of the security and happiness of the community, than that one innocent man should be put to death with the forms and solemnities of justice.

"The misfortune," continues Dr. Paley, 'of an individual, for such may the sufferings, or even the death of an innocent person be called, when they are occasioned by no evil intention, cannot be placed in competition with this object.' He here speaks of the sufferings and privations endured by the victim, as if they were the only evils resulting from the punishment of the innocent. He overlooks entirely the mischiefs which arise from the consideration that the most perfect innocence, and the most implicit submission to the laws cannot afford security to those who possess the one, and practise the other. He leaves altogether out of his consideration that disrespect for the tribunals which is the necessary consequence of so terrible a failure in the administration of justice. He does not reflect how much the effect of example must be weakened by men being taught from what they have themselves witnessed, that the wretch, whom they see consigned to punishment, may be in the highest degree unfortunate, and in no degree guilty. He does not take into his account the hopes which the punishment of an innocent man ever affords to the guilty, by placing in so striking a point of view, the fallibility of our tribunals; and by shewing how uncertain it is that punishment will be the consequence of guilt. Could the escape of ten of the most desperate criminals have ever produced as much mischief to society, as did the public executions of Calas, of D'Anglade, or of Lebrun? The state of insecurity in which men were placed by some of these fatal errors in the administration of justice in France, is strongly exemplified by the saying of a man of considerable eminence in that country, who declared, that if he were accused of stealing the towers of Notre Dame, he would consult his safety by flight rather than risque the event of a trial, though the crime imputed to him was manifestly impossible.

"Dr. Paley goes on to observe, 'That courts of justice should not be deterred from the application of their own rules of adjudication, by every suspicion of danger, or by the mere possibility of confounding the innocent with the guilty.' And in this observation every body must agree with him. If courts of justice were never to inflict punishment where there was a possibility of the accused being innocent, no punishment would in any case be inflicted,

one of the least among many; that was one reason given, but the true reason is this; If the law were otherwise, there would be great safety in conspiring the death of the king.

In those instances in which the proof of guilt seems to be most complete, the utmost that can be truly affirmed of it is, that it amounts to a very high probability: no truth, that depends upon human testimony, can ever be properly said to be demonstrated. Human witnesses may utter a falsehood, or may be deceived. Even where there have been a number of concurrent and unconnected circumstances, which have appeared inexplicable upon any hypothesis but that of the accused being guilty, it has yet sometimes been made evident that he was innocent. Nay, in some instances where men have borne evidence against themselves, and have made a spontaneous confession of the crimes imputed to them; not only they were not, but they could not be guilty, the crimes confessed being impossible. With the wisest laws, and the most perfect administration of them, the innocent may sometimes be doomed to suffer the fate of the guilty, for it were vain to hope, that from any human institution, all error can be excluded. Yet these are considerations which are calculated very strongly to impress upon courts of justice, not indeed that they 'should be deterred from 'the application of their own rules of adjudication,' but that they should use the utmost care and circumspection in the application of those rules; that in a state of things where they are so liable to error, they cannot be too anxious to guard against it, and that if it be a great public evil, as it undoubtedly is, that the guilty should escape, it is a public evil of much greater magnitude, that the innocent should suffer. It should be recollected too, that the object of penal laws, is the protection and security of the innocent; that the punishment of the guilty is resorted to only as the means of attaining that object. When, therefore, the guilty escape, the law has merely failed of its intended effect; it has done no good, indeed, but it has done no harm. But when the innocent become the victims of the law, the law is not merely inefficient, it does not merely fail of accomplishing its intended object, it injures the persons it was meant to protect, it creates the very evil it was to cure, and destroys the security it was made to preserve.

" 'They ought rather,' continues Paley, 'to reflect, that he who falls by a mistaken sentence, may be considered as falling for his country, whilst he suffers under the operation of those rules, by the general effect and tendency of which the welfare of the community is maintained and upheld.' Nothing is more easy than thus to philosophize and act the patriot for others, and to arm ourselves with topics of consolation, and reasons for enduring with fortitude the evils to which, not ourselves, but others are exposed. I doubt, however, very much, whether this is attended with any salu-

L. *Staff*. My lords, I say nothing further as to the rest, but this stuck with me. I am sorry to hear a Judge should say any such thing; and though I am in such a weak and disturbed con-

tary effects. Instead of endeavouring thus to extenuate and to reconcile to the minds of those who sit in judgment upon their fellow-creatures so terrible a calamity as a mistake in judicature to the injury of the innocent, it would surely be a wiser part to set before their eyes all the consequences of so fatal an error in their strong but real colours. To represent to them, that of all the evils which can befall a virtuous man, the very greatest is to be condemned and to suffer a public punishment as if he were guilty. To see all his hopes and expectations frustrated; all the prospects in which he is indulging, and the pursuits which he is following, for the benefit, perhaps, of those who are dearer to him than himself, brought to a sudden close; to be torn from the midst of his family; to witness the affliction they suffer; and to anticipate the still deeper affliction that awaits them: not to have even the sad consolation of being pitied; to see himself branded with public ignominy; to leave a name which will excite only horror or disgust; to think that the children he leaves behind him, must, when they recollect their father's memory, hang down their heads with shame; to know that even if at some distant time it should chance that the truth should be made evident, and that justice should be done to his name, still that his blood will have been shed uselessly for mankind, that his melancholy story will serve wherever it is told, only to excite alarm in the bosoms of the best members of society, and to encourage the speculations for evading the law, in which wicked men may indulge.

"Let us represent to ourselves the judges who condemned Calas to die, apologizing for their conduct with the reasoning of Paley. Admitting that it was a great misfortune to the individual, but insisting that it was none to the public, and that even to the individual the misfortune was greatly alleviated by the reflection, that his example would tend to deter parents in future from embroiling their hands in the blood of their children, and that in his instance the sufferings of the innocent would prevent the crimes of those who had a propensity to guilt. With what horror and disgust would not every well formed mind shrink from such a defence!

"When we are weighing the evil of the punishment of one innocent man against that of the impunity of ten who are guilty, we ought to reflect, that the suffering of the innocent is generally attended in the particular instance with the escape of the guilty. Instances have, indeed, occurred like that which I have already mentioned of Calas, where a man has been offered up as a sacrifice to the laws, though the laws had never been violated: where the tribunals have committed the double mistake of supposing a crime where none had been committed, and of finding a criminal where none

dition, I assure your lordships my blood rises at it.

L. H. S. Is it your lordships pleasure that we should adjourn?

Lords. Ay, ay.

L. H. S. Then this House is adjourned into the Parliament-chamber.

[The Lords withdrew in their order, and the committee of Commons went back to their House.] *

could exist. These, however, are very gross, and therefore very rare examples of judicial error. In most cases the crime is ascertained, and to discover the author of it is all that remains for investigation; and in every such case, if there follow an erroneous conviction, a twofold evil must be incurred, the escape of the guilty, as well as the suffering of the innocent. Perhaps amidst the crowd of those who are gazing upon the supposed criminal, when he is led out to execution, may be lurking the real murderer, who, while he contemplates the fate of the wretch before him, reflects with scorn upon the imbecility of the law, and becomes more hardened, and derives more confidence in the dangerous career upon which he has entered." *Observations on the Criminal Law of England, &c. by sir Samuel Romilly, Note D.*

* I will insert the following passage from *Mrs. Macaulay* respecting this trial, because it furnishes a lively specimen of the flippancy and other qualities which characterise her work, and because it is in some respects superior to the matter which ordinarily flows from her pen.

"Humanity was again disgraced by the clamours and outrage of the people during the trial of this unfortunate nobleman: he was more than once thrown into confusion on the occasion; yet, on the fifth day, notwithstanding the fatigues and mortifications he had undergone, he so far recovered himself as to sum up the whole case, as to fact and argument, in a manner calculated even to soften the obdurate temper of party; and to bring conviction to every mind not strongly tinctured with prejudice. After pleading his age, his want of endowments, his exhausted spirits and strength in his long trial, in consideration of which he hoped their lordships, who were both his judges and counsel, would pardon the many defects which he must needs commit; he recapitulated the whole evidence, as well, he said, as his weak memory and discomposed condition would permit; he reminded the lords of the several instances wherein he had proved the witnesses forsworn; he recounted the various contradictions; he made observations on the moral impossibilities, and absurdities, as to divers parts of their evidence; and inferred from thence, that those who will forswear themselves in one thing, are not to be credited in any. He insisted on the infamy of the witnesses, and the wickedness of their lives; he inculcated their former beggary, compared to the encou-

Mr. Speaker resumed the chair.

A Message was sent from the Lords by *sir Timothy Baldwyn* and *sir Samuel Clarke*.

Mr. Speaker. The Lords have sent us to acquaint this House, that they have ordered *William viscount Stafford* to be brought again to the bar in Westminster-hall, on Monday-morning next at ten of the clock.

After which, the House of Commons adjourned to eight of the clock on Monday morning.

agement, caresses, applause, and allurements of gain, which they had found in their new employment: he alleged their subornation to make good their forgeries, and their bare oaths, without any corroborating circumstance, but what depended on the same oaths: he represented, that during a course of forty years he had, through many difficulties and losses, still maintained his loyalty; and was it credible that now, in his old age, easy in his circumstances, but dispirited by infirmities, he should belie the past tenor of his life, and engage in hazardous undertakings against his royal master, from whom he had never received other than kind treatment. Having thus summed up his defence, the prisoner proceeded to propose certain points, or doubts, in law, which occurred in his case, concerning the manner of the impeachment, and the continuance of it from parliament to parliament. Whether the indictment contained an overt-act necessary to a conviction of treason? Whether men, who swear for money ought to be credited or admitted as witnesses? Whether the Plot was as yet legally proved? And whether, there being but one particular witness to any one particular point, such an evidence be sufficient in law?

"The unequal contest in which the prisoner was engaged, the unexpected manner in which he had acquitted himself, his great age, his long confinement, and the present harrassed state of his mind, were circumstances of commiseration which held in suspense the resentments of party, the incentives of policy, and the zeal of bigotry, and for a while softened the whole assembly into a generous sympathy, when *sir William Jones* resumed the evidence against the prisoner with such force, art, and address, that all the baneful passions were again inflamed, and a violent indignation succeeded the momentary tenderness. It is an avowed truth, that the consciences of lawyers are governed by rules peculiar to themselves, and entirely opposite to the ideas which prevail with honest men of other professions; a circumstance which, though of a very important nature, has little weight with courts of judicature; every judgment is directed by the bench or the bar, and the triumph gained by *sir William Jones* is a striking instance amongst a variety of others, which disgrace our annals, that trials at law are often mere mockery of justice; and that the depriving an individual, pleading for his life, of the advantage of having the last word with the court, is in reality, the depriving

THE SIXTH DAY.

Monday, December 6th, 1680.

About the hour of eleven in the morning, the Lords being adjourned into Westminster-hall, going thither in their former order into the court there erected; and Mr. Speaker having left the chair, the committee of Commons were seated as before.

The court being sat, proclamation for silence was made, and the lieutenant commanded to bring his prisoner to the bar; which being done, the Lord High-Steward began.

him of every advantage naturally attendant on that much boasted part of the English constitution, the trial by juries and peers.

“On the following point of law, whether two witnesses were required to every overt act, the Lords called upon the Judges for their opinion, and the whole Bench, led by the Lord Chief Justice North, gave it against the prisoner, and declared, that if there be several overt-acts, which are evidences of the same treason, though proved by different witnesses, it is sufficient to maintain an indictment or impeachment. Whether the judges, in giving this opinion, were actuated by motives very imprudently acknowledged by baron Atkins, in the course of the trial, viz. that the evidence of one witness to one overt-act, ought to be deemed sufficient in the prisoner's case, because if it was not, it would prove that those persons who had already suffered, had suffered illegally; or whether, with greater probability, they were desirous of making the crown more formidable, by adding to the great advantages which it already had in trials of treason, certain it is, that the Lords, in giving way to this decision, destroyed all the useful and benign purposes of the act of the 25th of Edward 3d, and subjected the life and property of every imprudent man to the vengeance of the court. All the other objections were over-ruled by the Lords, and on the seventh day from the commencement of the trial, the Commons attended in their places, the court, by a majority of twenty-four voices, gave sentence against the prisoner, who received the fatal verdict with becoming resignation—“God's holy name be praised!” was the only exclamation he uttered; but when he was told by the High Steward, that the peers would intercede with the king for remitting the more cruel, and what is termed the most ignominious parts of his sentence, hanging and quartering, nature for one moment prevailed, and a burst of tears shewed the lively sense he had of the injustice of the sentence: however, he excused the weakness, by politely saying, that he was moved by their lordships goodness, not by any terror of that fate which he was to suffer.

“Undoubtedly, more from a jealousy of the exertion of the prerogative, than from any personal rancour, the sheriffs Bethel and Cornish, who were suspected of entertaining Republican principles, started a doubt of the king's power

L. H. S. Read my lord Stafford's Petition.

To the Right Hon. the Lords in Parliament assembled, the humble Petition of William viscount Stafford.

“Humbly shewing unto your lordships; That he hath some things to offer unto your lordships in order to clear himself, which he hopeth to do. Your petitioner doth therefore, with all humility, most humbly beseech your lordships to give him leave to offer some things unto your lordships consideration, And your petitioner shall ever pray, &c. “STAFFORD.”

of exercising this small act of lenity; and lord Russel, a man eminent for his virtue and humanity, actuated by the same zeal for preserving popular privileges, seconded, in the lower House, the scruple of the sheriffs: however, as the peers had pronounced it superfluous, the Commons acquiesced and returned an answer, That they were content that the sheriffs should execute William late viscount Stafford, by severing his head from his body.

“As Stafford had been treated with great neglect by the Court, had often been in opposition, and was formerly connected with lord Shaftesbury in schemes for the dissolution of the first parliament, it might be supposed that on these reasons he would have found more favour with the Commons than any [other] of the Five Lords who had been accused of the conspiracy, and that he would have been at least the last victim; but the party, confiding in that pusillanimity which commonly attends old age and mean parts, expected that the hopes of a pardon would produce some discoveries which would ascertain, beyond a doubt, the reality of the Plot, and more particularly affect the duke of York. And Stafford, having let fall, that he had somewhat to communicate which might support the Exclusion Bill, provided it would be the means of saving his life, he was called before the House of Peers, where he discovered many schemes which had been laid by himself and others, for procuring a toleration to the Papists; but on his naming the earl of Shaftesbury among those who were concerned in these schemes, he was in a great hurry ordered to withdraw; a period was put to the examination, and Stafford now prepared himself for death with an intrepidity which even innocence and integrity, unassisted by a natural firmness of mind, or an especial support from divine mercy, cannot always command. When going to execution, he called for a cloak to defend him from the rigour of the season, and said, “Perhaps I may shake with cold, but I trust in God, not with fear.” Of all those thousands of people which a savage curiosity had brought together on this awful occasion, not a face appeared more serene or cheerful than was the countenance of the prisoner; who, when mounted on the scaffold, continued with reiterated asseverations to make protestations of his innocence; he solemnly disavowed all those immoral prin-

L. H. S. My lord Stafford, my lords have been willing, upon your petition, to come and hear what that is that your lordship hath to offer: And they would know whether it be a matter of fact, or matter of law. For your lordships must know, that as to witnesses the process is closed.

ciples which, on the authority of the practice of the Church of Rome, at different times have, without distinction, been ascribed to the whole body of the Papists; he mentioned the witnesses with a becoming charity: "And he hoped," he said, "that the time was now approaching, that truth would be brought to light; and that the world would be acquainted with his innocence, and what injury he had sustained." That fury and rage of the populace which had appeared at Stafford's trial and condemnation, was now melted into tenderness and fruitless tears: they assented to these protestations, which he frequently repeated, of his innocence, by respectful bows and expressions which manifested their belief and their compassion: "We believe you, my lord; God bless you, my lord." The Executioner also, affected with the general sympathy, three times lifted up the axe before he could execute the fatal office; and a deep sigh accompanied the stroke which put a final end to the cares and the sufferings of the prisoner. The multitude, struck with pity and remorse, beheld, in mournful silence, the bleeding head exposed at the four corners of the scaffold, with the usual warning cry of, "This is the head of a traitor." And thus by a sudden revolution in the minds of the populace; the fate of this once hated popish conspirator, was more solemnly lamented than that of any one of the Protestant or Patriot martyrs, who had suffered from the first period of the monarchy to the present times.

"It is worthy observation, that in the division of the peers, four of lord Stafford's own family, viz. the earls of Carlisle, Berkshire, and Suffolk, and the lord Howard of Escrick, condemned him, whilst he was absolved by the lords Lucas and Holles, who were eminent for their zeal against popery; that the ministry were equally divided on this point, as on the Bill of Exclusion; that the king's great favourite and confidant, the duke of Lauderdale, was on the rigorous side of the question, with the Lord Privy-Seal, Anglesea; the Lord President, Radnor; and the Lord High Steward, Nottingham; who, moreover, declared his faith in the Plot in the strongest terms; that the duchess of Portsmouth, in the rage of her disappointment, on the ill success of the Exclusion Bill, attended the trial, dealing sweet-meats and smiles among his prosecutors; and that the king, who had refused to withdraw his countenance from that odious minister, Lauderdale, on the repeated instances of his Scotch subjects, and the repeated addresses of the English parliament, should, without a struggle, of any seeming reluctance, deliver up a faithful subject to the mistaken prejudices of a party,

L. Staff. I do not pretend any more witnesses, my lords.

L. H. S. Then, my lord, what is it that you would say?

L. Staff. My lords I did yesterday receive an order from your lordships; and upon that and some other things that I have to trouble

at the same time that he declared to his intimates, that he did not believe one word of the Plot, or that any conspiracy of any kind had been formed against him.

"If the execution of Stafford gratified the resentment of the exclusionists, it tended very much to weaken their authority with the people: as there is nothing more variable than the sentiments of the multitude, so there are no extremes so opposite that they will not, in their turns, embrace. Their natural passions, untamed by cultivation, are easily roused to the highest point of frenzy; and the transition from the extreme of hatred to the extreme of sympathy, is often as sudden as the effects are violent. The leaders of the popular party, not aware of this circumstance, had surfeited, by their too frequent executions, the eager appetite of the people, whose belief is always more founded on humour than rational conviction. After the first executions, every blood-letting, according to Burnet, lowered the heat of the nation into a mortal coldness; and the affecting scene of Stafford's sufferings, by exciting a general commiseration, turned so strongly the tide of prejudice, that the prelatical party, who now made no scruple to avow, that they thought the church was in less danger from the Papists than from the Presbyterians, on account of the greater popularity of the latter, were successful in the circulating the opinion, that there never had been any plot or conspiracy among the Papists; that the whole was the forgery of the Presbyterians; and that it was done with the design of ruining the church and monarchy. The venal pen of sir Roger l'Estrange was employed to prove that moral impossibility of sir Edmundbury Godfrey's having been his own murderer, and some of the most virulent of the party made no scruple to lay it to the charge of those who were the warmest prosecutors of the Plot, which, it must be acknowledged, was carried on by such violent and unjust proceedings, as can admit of no excuse or palliation, and which served as examples to take away as many innocent lives; among the Protestants, as had suffered among the Papists."

Something like the speech of lord Stafford, about his shaking, is reported to have occurred at the execution of M. Bailly, at Paris. "Tu as peur Bailly," said a by-stander, who observed him to shiver, "Non," replied the prisoner, "mais j'ai froid."

The reason assigned for the opinion in favour of the sufficiency of one witness to one overt-act, and another to another overt-act of the same species of treason, viz. "otherwise

your lordships with, I did petition for this favour which I humbly thank your lordships for granting. If I be impertinent, I shall beg your lordships pardon, and I hope you will be pleased to consider my weakness at all times, especially in this condition I am now in; but I hope by your lordships favour to be in a happier one quickly. For the matters of proof, I shall offer not a tittle; but, my lords, this Order which I received does say, That the Lords assembled in parliament have ordered, that my counsel shall not be heard touching the Continuance of Impeachments from Parliament to Parliament: But I hope, my lords, you will please, without offence, to let me offer to your lordships my own conceptions about it; which I shall do as briefly as I can.

My lords, I do not conceive by this Order, that your lordships say it does or does not continue; you have given no judgment, as I know of, in it; when you have, I shall acquiesce: But I hope your lordships will resolve that it does not. And, my lords, my reasons for it are two: The first is, because one of the managers for the House of Commons, as I take it, Sir W. Jones, said these words, and your lordships may remember them, 'That if there were no such precedent, your lordships would

no government could be safe if traitors had but craft equal to their villainy," (see *Fost.* 237) does not seem to be satisfactory. Considerations of that kind are indeed intitled to very great influence in regulating the proceedings of legislators as to what laws should be enacted, but they are wholly impertinent to the construction of laws which have been already enacted. This construction of the stat. 1 E. 6. c. 12. and 5 and 6 Ed. 6. c. 11, appears not to have been established till this case of lord Stafford. (See *Foster*, 236, 237). Nevertheless, it seems to be the legitimate and fair construction of those statutes, and in no respect to impugn that most wholesome rule which is stated by lord Bacon. (*Maxims, Regula* 12). 'Penal Statutes shall not be construed by equity.'

As to the king's power of altering the execution of a sentence, lord Bacon says, "In treason it hath been an ancient use and favour from the kings of this realm to pardon the execution of hanging, drawing, and quartering, and to make warrant for their beheading." Preparation toward the Union of the Laws of England and Scotland, vol. 3, of his works, p. 498, 4to ed. of 1778.

"In felony, the corporal punishment is by hanging, and it is doubtful whether the king may turn it into beheading in the case of a peer or other person of dignity, because in treason the striking off the head is part of the judgment, and so the king pardoneth the rest; but in felony, it is no part of the judgment, and the King cannot alter the execution of law, yet precedents have been both ways." Preparation towards the Union of the Laws of England and Scotland, vol. 3, of his works, p. 501.

'make a precedent:' Whether you will or no, that I must submit to your lordships; but then there is none yet. The next thing is, my lords, this, Whether an Impeachment be to be prosecuted in parliament without an Indictment? This, my lords, I humbly hope your lordships are resolved it ought not. For I see not how truly, my lords, it can be; by the little reading which I have had in the law, I never found any man prosecuted in a legal way, but by an indictment. I may be mistaken, and I beg your lordships pardon for troubling you with my mistakes; but I never read of any that were prosecuted upon an Impeachment? so then, the legal usual word being Indictment, I hope your lordships will not alter the form; for I hope you will keep that great maxim of your noble ancestors, 'Nolumus Leges Angliæ mutare': And whether this be a change of the law or no, I submit it to your lordships.

A third thing is this; Your lordships do not think fit that my counsel shall plead to that point, Whether words do amount to an overt-act; for hearing my counsel to that likewise I do not pretend: But I hope your lordships will give me leave to say this, I never heard that words did amount to an overt-act: if your lordships judge otherwise, I submit; but till then, I hope it shall not conclude me.

There are some other points which I did offer to your lordships, and I humbly beseech you to know, whether my counsel shall be heard to them. It is true, one of them, which was, Whether two witnesses in several places did amount to a legal testimony or no, your lordships did not declare one way or another: If you say you acquiesce in the opinion of the judges, I must submit; but till judgment is given, I beseech your lordships to give me leave to tell you my weak thought about it. I did not hear what the Judges said all of them, but as I apprehend, they were all of one opinion; It is true, one of them that spoke last, I think it was judge Atkins, did say it did amount to a legal testimony because else those juries that have found some guilty upon the same short evidence should be perjured; but if this were not so, then upon the same grounds, under your lordships favour those juries that acquitted some upon such testimony were perjured: But I must believe it to be otherwise till your lordships have declared it as your opinion; for that reason will not hold; for the same reason will be for the perjuring the one, as for the perjuring the other. And the same juries, for the most part, tried those that were found guilty, and those that were acquitted.

L. H. S. Is this all your lordship will please to say?

L. Staff. No, my lords, if you would give me leave, I would trouble you a little farther; if it were an offence I would not say a word. My lords, I do conceive I am not concerned in the general Plot of the papists; for I am not proved to be so, and whatsoever I may be in myself, as I conceive, or whatsoever there is of hearsay, I hope your lordships will not go upon that, but

upon what is proved 'secundum allegata et probata,' and that Common Fame will condemn no man; if it do, then no man is safe; but I must say, there is not one word of proof offered that I am a papist.

I hope, my lords, I have cleared myself to your lordships, and made my innocency appear, by making appear the perjury of the witnesses, and the falshood of those things they said against me. Against Dugdale I have proved it by two of his own witnesses; the one was Eld, the woman that swore for him, That he took up a glass of cyder and wished that it might be his poison if he knew any thing of the Plot; the other was Whitby, who says, he had given my lord Aston's father warning long ago what a knave he was. So it is clear. For Dr. Oates I hope from his contradictions against himself as well as Dugdale, who does contradict himself, at one time August, at another time the latter end of August or the beginning of September: and I hope your lordships will give no credit to Oates's testimony; for he said before your lordships he had declared all he knew, (it is true, I was then accused, but not for having a commission, as he now swears) and afterwards he accused the queen; so here is Oates against Oates, and Dugdale against Dugdale: and for Turberville, I have proved by his affidavit, first he swears one thing and then another; and the truth of it is, his brother proved him false in his last oath, that it was 1671, and not 1672.

My lords, It is not my part to make any question, nor do I, whether a Plot or no Plot; for I am not concerned in it: if what I shall say now be impertinent, I humbly beg your lordships pardon. My lords, I have been by the most of my friends, at least every one that came to me, particularly by my wife and daughter that is near me, persuaded to tell all that I knew, and I do here in the presence of God Almighty declare what I know to be true.

L. H. S. What says my lord? Speak out.

L. Staff. My lords, I do believe since the Reformation from the Church of Rome to (what it is now established) the Church of England, those of that religion have had several wicked and ill designs and Plots: I do believe they had a design in queen Elizabeth's time, Babington's Plot,* (that is a long time ago) how far it was to take away the queen's life I cannot tell, but a Plot it was: and I do believe there was another in her time, called earl of Westmoreland's Plot, wherein there was a rebellion in the North, for which some fled and some were executed, that was a very ill design: as for those poisonings of her saddle, and the like, I take them to be but stories.

In king James's time, in the first year of his reign, there was a wicked Plot composed by actors, some of one religion, some of another; there was my lord Grey, my lord Cobham, my lord Brooke, and other such, they were condemned all of them;† some fled, as Markham

and Bainham: those lords and sir Walter Raleigh were reprieved and kept long in the Tower. But sir Walter Raleigh was afterwards upon that same judgment beheaded, and the lords died in the Tower.

My lords, next to that was the execrable treason that I spoke of at first, the Gunpowder Treason:‡ And I protest before Almighty God, I did from my infancy detest and abhor those men, that were engaged in it; and I do think, and always did think the wit of man nor the devil's malice cannot invent an excuse for it. For the men concerned, they all acknowledged it, confessed it, and begged pardon of the king, and God, and all good men for it; that is all I shall say to that now.

My lords, since his majesty's happy restoration, I do conceive, and I think I may safely say it, (for you all know it) he was gracious and good to all Dissenters, particularly to them of the Romish Church; they had connivance and indulgence in their private houses; and I declare to your lordships, I did then say to some that were too open in their worship, that they did play foul in taking more liberty upon them than was fitting for them to do, and that brought the misfortune upon me which I will not name.

My lords, It was not long ago that your lordships at your own bar did allow all the Dissenters from the Church of England to give some reasons to your lordships why those laws that were against them should be repealed, as well Protestant Dissenters as those of the Church of Rome, and why they should have some kind of toleration; among whom you did permit those of the Romish religion to appear too, I forget their names. And I remember particularly one of the sorts of them, an Anabaptist I think, did urge for a reason, that which is a great truth, that they held rebellion to be the sin of witchcraft; I believe it is as bad as any sin can be.

My lords, that came to nothing at that time; but, my lords, I believe that after that, all of all religions had meetings among themselves to endeavour to get that toleration which they proposed humbly to your lordships; there I will never deny, my lords, that my opinion was, and is, that this kingdom can never be happy till an act of parliament pass to this effect; it was my opinion then, and I did endeavour it all I could, that the dissenting Protestants might have a comprehension, and the other a toleration: I acknowledge it to be my intention, and I think it was no ill one; for if that be a true copy of the Commons votes which is in print, there is some such thing designing there as a comprehension; and I was of opinion, that it were sufficient that such as were of the Church of Rome might by act of parliament serve God in their own houses, and privately in their own way, not in public, and that for it they should pay something to the king out of their estates, but truly not much;

* See vol. 1. p. 1127. † See vol. 2. p. 62.

‡ See vol. 2. p. 159.

that they should be severely punished if they or any of them did endeavour to persuade any subject to their opinion, or did come to court, or enjoy any office whatsoever, though it were but that of a scavenger, but that they should pay their proportion to all chargeable offices: that I profess, my lords, was my opinion, and I confess to your lordships it is so still. I was in some hopes that it would have been done in that sessions, because I was afraid it was unlikely to be done at any time else. I confess to your lordships, I was heartily and cordially against the test, because it hindered those just and honest things that were for the good of the kingdom.

My lords, there was the first or the second day brought into your lordships house, the Record of Mr. Coleman's Trial; and for the Letters in it, I do, my lords, declare to your lordships I never read one of them before, but I have often read them since they have been in print; and when I read them first cursorily over, my opinion was and is, That Coleman's endeavouring by money out of France, and keeping off the parliament, to get a toleration, was that which he could not justify by law; how far it was criminal, that I do not know; I am not so skilled in the law; I think it was not justifiable, but he hath paid for it severely since.

My lords, I do declare that ever since I had the honour to sit among your lordships, which is now 40 years (for in the year 1640, I was by his majesty's favour called up a peer,) I have valued myself upon the honour of sitting with you; and I do declare, when I have sat in this house, when your lordships have desired the king, when it was hot weather and unreasonable, to put off the sitting of the parliament, I was never glad of it, but sorry when they were prorogued but for a short time. This I profess is true, and I hope I am no criminal in it; for I do value the parliament's sitting to be the only means to keep this kingdom quiet.

My lords, It is very true by Coleman's Letters, and what I have seen in print since, I do believe there have been some Consultations for a toleration; and if I had known as much then as I have since I have been in the Tower, I had perhaps prevented many things: for, my lords, I hold England to be a great and an happy body; but it is as other great bodies are, it may be now, as you know before it was, over-grown or sick; it was then, and I pray God it be not now; but I hold nothing can cure it but that old English physician, the king, your lordships, and the Commons in parliament assembled. But if I had known any such design as Coleman's Letters do hint, I would not have continued in England.

My lords, For that damnable opinion of King-killing, if I were of any church whatsoever, and found that to be its principle, I would leave it. My lords, this is as true as I can speak any thing in the world; I beg your lordships pardon for troubling you with my imperfluencies, and hope you pardon it to my weak-

ness. My lords, I do profess before Almighty God, and before your lordships my judges, I know no one title nor point of the Plot; and if I did, I hold myself bound to declare it. For the present I shall say little more, unless the managers give me occasion; if they will reply, and make any objections, I desire I may answer them. I know the great disadvantages I am under, when these gentlemen, who are great scholars and learned men, reply upon me, who have those great helps of memory, parts, and understanding in the law, all which I want. And therefore I hope your lordships will not conclude me upon what they or I have said, but will be pleased to debate the matter among yourselves, and be as well my counsel as my judges.

My lords, When I offered to your lordships Matter of Law, I did in no wise admit the Matter of Fact——

L. H. S. My lord, I cannot hear you.

L. Staff. My lords, If your lordships please, this Paper may be read.

L. H. S. Deliver your paper in, my lords cannot hear.

L. Staff. I cannot deny to your lordships, that what happened to me on Saturday-night, disturbed me very much. Every day since I came hither, there hath been such shouting and hooting by a company of barbarous rabble, as never was heard the like, I believe; but it was at a distance most of the time, and so it did not much concern me. But Saturday-night it was so near and so great, that really it hath disturbed me ever since; it was great to-day, but at a distance; if it were not thus, I should not offer a Paper to be read: I scarce know what I do or say, considering the circumstances I am in.

L. H. S. Take my lord's Paper, and read it.

Sir Tho. Lee. My lords, I desire you will please to consider whether this may not introduce a new custom by reading of this Paper. As to what my lord is pleased to say, I am sorry for the occasion that any disturbance should arise to my lord from the rabble, or any one else; I hope his lordship believes we cannot help, nor do we contribute to that disturbance. But we desire your lordships to consider, whether this practice of having things written down for the clerk to read, may not introduce a custom, which may in time grow inconvenient for future example. I see no great danger in the particular instance before your lordships now, but it is dangerous in such cases to do any thing that is new in this court.

L. H. S. All the matter is, whether it be read by my lord, who cannot be heard, or read by the clerk.

Sir Tho. Lee. We only oppose it out of fear of making a precedent, which may be of ill consequence.

L. H. S. Read it, my lord, and raise your voice, for it concerns you to speak out.

L. Staff. (Reading out of his Paper.) My lords, When I offered matter of law to your lordships, on Saturday last, I did in nowise ad-

mit the matter of fact to be true that was alleged against me, and so I desire to be understood. And I hope your lordships will not lay the less weight upon the testimony of my witnesses, because they are not sworn; for the law does not suffer them to be sworn, which is no fault of mine, nor ought not to turn to my prejudice.

I must appeal to your lordships judgments in point of fact, how far the king's witnesses are to be believed against me, considering the whole matter, and my counter-proof.

Next I submit to your lordships judgments this point, That the Impeachment being founded upon the common law, and the statute of 25th Edw. 3, and not upon the statute of the 13th of this king, two of the witnesses, Dugdale and Turberville, do only swear treasonable words spoken by me, and not my overt-act; for they swear only that I promised them money and rewards to kill the king. Now I humbly pray your lordships judgment, whether bare speaking of words be an overt-act, and treason at the common law, or upon that statute; and whether there be more than speaking of words in a consult, or otherwise proved by Dugdale and Turberville, I appeal to you. Then the other witness, Oates, is but a single witness, who speaks of the receiving of a commission. This is that I offer to your lordships now for your judgments, and then I desire I may have your opinion in other things.

L. H. S. Is this all your lordship hath to say?

L. Staff. For the present, my lords.

L. H. S. You must say all you have to say now.

L. Staff. Is it your lordships pleasure to hear counsel to nothing at all? I did likewise allege to your lordships the other day, That people that swear for money are not competent credible witnesses; how far that was proved, or I may prove by my counsel, I submit to your lordships.

L. H. S. Look you, my lord, you have so far received already the pleasure of the House: You have raised several questions of law, Whether every overt-act requires two witnesses to prove it. You have had the opinion of the judges, and there is no more to be said in it. As to that, Whether Impeachments continue from parliament to parliament; and the other thing, Whether proceedings may be upon an Impeachment without an Indictment; these are matters of the course and constitutions of parliaments, my lords will consider of them by themselves, and will permit no counsel to argue them. For the other point, That words are no overt act, that rests for their opinion in another case, when it shall come, for they have now no such case before them.

L. Staff. I humbly conceive there is.

L. H. S. There is a great difference between bare words being an overt-act, and persuasion by promises of money and rewards to kill the king, which is a very great overt-act.

L. Staff. Is it possible to do an act by words? If it be so, I never heard it before.

L. H. S. Otherwise men may promise rewards to twenty several persons to kill the king, and then say it is all but words.

L. Staff. I say it not, but I humbly conceive the law says it.

L. H. S. What say you, gentlemen of the House of Commons?

L. Staff. My lords, I have something to say, which I desire to speak first: My lords, I have cleared to your lordships that all the witnesses have sworn falsely against me, and this I have made out by proofs: I say not much to that.—(My lord was searching for his Papers.) Truly, my lords, I am confounded with the noise and other circumstances; but, my lords, I shall, if your lordships please to give me leave, humbly represent my case to you, how I take it to be in matter of fact, (as to my own condition not any thing,) how I am now before your lordships.

I was, my lords, committed by my lord chief justice's warrant, on the 20th or 21st of October, 1678, Friday, 25th of October, I was brought to your lordships bar; I was impeached; I do not remember the day, my lords, the beginning of December; in one parliament Articles exhibited against me; in another parliament I was brought upon these Articles exhibited, and being called to your lordships bar, the Articles were read to me, and I gave in my Answer; that was some time in May 1679, and in the end of May, the 27th, (if I mistake not, if I do, I desire it may be rectified by your books) I, with the other lords, were brought to this place in order to our Trial. We staid some time there, and then were remanded by your Order to the Tower, where I continued till November twelve months after, without having heard any thing concerning it. So that I was first impeached in one parliament, Articles brought against me and pleaded to in a second, and now brought to my trial in a third; and what your lordships will say upon this, I submit to you; and whether these be proceedings according to law your lordships will judge.

My lords, I humbly conceive that Magna Charta says, That justice shall be denied nor delayed to no man: whether it hath not been delayed to me let your lordships judge. If you say the prorogation of the parliament is the cause of that delay, I hope your lordships will give me leave to say, That from the 5th of December to the 30th, when the first parliament was prorogued, or during the session of the other parliament, there was time enough sure wherein I might have been brought to my trial; and if these proceedings be lawful and just, there is no man living, but may be kept off from time to time, till some accidents happen that their ends may be gained. I leave it to your judgment, whether it may be only my case now, or of some of your lordships in future ages, to be accused of things that you never heard of before, and not brought to justify yourselves, but kept in prison.

My lords, there is a statute, I have forgot where it is, (but such a one I have read) that though the king by his great seal, or little seal,

command that justice should be delayed or denied, yet, however, the judges shall not obey it, but proceed. So I hope there is no pretence of delay on my part, and the benefit of that statute shall not be denied me. And that statute of the Great Charter, which cost so many of your ancestors their lives to maintain, I hope you will never go from. Now your lordships' noble ancestors, amongst other things, took great care that justice should be denied or delayed to none, and this I desire you to take into consideration.

I am in your lordships judgment either to be acquitted or condemned. I hope your lordships will, and I know you will, lay your hands upon your hearts, consult your consciences and your honours; and then you will do what is just and equitable, I doubt not.

My lords, Mr. Oates said I came by the name of Mr. Howard of Effingham, but that I did to my letters sign 'Stafford;' surely, my lords, if I was ashamed to own my person, I should have been as much ashamed to have owned my name. He says, he saw me take a commission, and whether that be an overt-act, your lordships are to determine. Upon the whole matter, I conceive, there is nothing proved against me but words, nor pretended to, but only by Oates. And whether you will credit a man that so dissembles with God, as I have told you, I appeal to your lordships, and beg you to consider of it.

That these Witnesses have sworn for money, if you send to the Exchequer-Office, and see what money they have received, you will find by the great sums that it is so; and then I hope you will not allow them to be heard, nor credit any that swear for gain. I had a suit in Westminster-Hall, that had like to have gone expressly against me, only because one of my witnesses was to gain 8*l.* if the suit went for me. But pray consider how much these men have had. And for the point, that there are not two witnesses, I beseech your lordships give me leave to put you in mind, That not many years ago, you passed an Act against Frauds and Perjuries, wherein you were so careful to preserve men's estates, that you required three witnesses to prove a will of goods or lands above 100*l.* and will you allow but one witness to take away a man's life for words? Though your lordships will never commit treason, yet no man can preserve himself from the misfortune that happens to me, of being falsely accused.

It is true, my lords, the Managers have given an Answer to the business of the money, by saying, The king may give as liberally as he pleases; but to give so great sums, whereby men poor before, are now become rich, I think will be an objection against their credit.

My lords, I have said what I do think convenient, though I think much more might be said by an abler man to your lordships, for the clearing of himself. I hope I have done it, nay, I am confident I have; and this I have done for the memory of that great and blessed king,

who first made me a peer, that it may not be said he did me the honour forty years ago to call me up to this dignity, and I should fly in the face of his son in so horrible a manner as these men would make me. I do owe it to the honour of my father and mother, who, I think I may safely say, were both honourable and worthy persons. My father was a learned man, and a wise man, as I may appeal to some of your lordships who knew him well; I say, I owe it to their memory, and to the honour of the family from whence I sprang, which all the world knows what it is. And I should be an infamous man to dishonour them so much, as to bear their name, and commit treason. My lords, I owe it to my wife, who hath been a very kind wife to me as ever man had: She is heiress at law to the great estate of that great and unfortunate man Stafford, duke of Buckingham, who was cut off in the reign of king Henry the 8th, and all his estate, if it were not for that Attainder, would have come to her.

I may be impertinent in telling your lordships what it was; but I do not over say it, when I reckon it would have been at this day 20,000*l.* a year, for it was 17,000*l.* a year in those days penny-rent, besides other emoluments. This is an extravagant thing to say, but it is true; something thereof does remain to her, which I now enjoy. I owe it to all my children, especially to my eldest son, who is a young man, and I may say, of far better parts and hopes than his father, and whom, I hope, will serve his country. I owe it to all my friends and relations, for I would not have it said after my death, my wife was the widow of a traitor. I owe it to all these, but above all, I owe it to God Almighty; that when I come to be judged by Him, I may give a good account of what he hath entrusted me with, that I may not appear as an infamous man who knows he hath a body, but not his own, and yet should throw it and his soul away together. And if I should have committed this execrable treason, I should have been guilty of my own murder: 1st, In the committing a crime worthy of death; and then in not confessing, to save my life. I hold murder an extraordinary crime, the worst next to treason: And I know, if I should not prevent my death by confessing all I knew, I should have been guilty of self-murder, the worst of murders. I know your lordships will lay to heart, what an execrable thing murder is, and the blood of innocents; and I hope there is none of the House of Commons, but after this evidence will clear me. I am sure none of them would have me punished for that I am not guilty of. I do not blame these gentlemen of the House of Commons for prosecuting, nor the first for impeaching; for they had without all doubt, reasons great enough for it upon what evidence they had before them, before they knew what the witnesses were. I know your lordships will not in the least point vary from justice, or the law of the land, and I desire you to lay the whole matter to your hearts; I have not the least suspicion of the

partiality of any man in the house; nay, I profess, if I had an enemy, and he were not here, I would beg of you that he might come. I have cleared myself before your lordships, and I hope I shall not be run down by the wicked rabble; which, where it will end, God knows. It began in the late times against my lord of Strafford,* and so continued till it ended in that most execrable fact, one of them, that ever was done. A wicked beginning it was, and it had a wicked end. For since our Saviour's death and murder by the Jews, never was so execrable a murder in the world; and whoever had an hand in it, without an extraordinary repentance, can have no thoughts of salvation. I never could serve the king, it is true, but in my desires; and I never deserted him in thought, word, or deed, to my knowledge, in my life; much less did I ever contrive or consent to his death. I do in the presence of God, angels, your lordships, and all men, declare, I do know no more of the Plot, or any such thing, than any one here does. That those of the Romish religion had meetings, I believe, to obtain those ends that I spake of before: Coleman went too far; how far he was criminal in it, I cannot tell. Meetings, I say, there were, but I was never at one of them, nor do I know what was done there. I do leave it to your lordships to do justice, as I know you will, and with all submission I resign myself up to you.

L. H. S. Have you done, my lord?

L. Staff. If your lordships will not allow me counsel to argue those points, I have done.

L. H. S. What say you, gentlemen of the House of Commons?

Serjeant Maynard. My lords, something that my lord hath spoken hath been resolved against him, that is, about two witnesses to each overt-act; some things are not to be disputed about the law and course of parliaments; some things were not to be said now, because he had said them before. My lords, we had concluded our evidence, and he is pleased to take up the time with repeating what was said before.—For the other matters that my lord is pleased to discourse of, all he says is but his obligations, and how unreasonable it were for him to do it; the question is, Whether he hath done it or no? If he hath, his obligations are an aggravation of his crime, not an excuse. His relations, his family, and other things are nothing before your lordships now in point of judgment, nor is there any thing new said to-day, that was not said before.

Sir W. Jones. My lords, I should not add one word farther, were it not that this noble lord is pleased upon his memory, or rather without, to say something of me; and that was, That speaking of the continuance of proceedings, I should say, 'If your lordships had no precedent, I hope you would make one.' My lords, I do appeal to your lordships memory, whether I said any thing like it; I utterly deny it, nor was there any occasion for it. For

there was no need of urging precedents, when your lordships, upon a conference with the Commons, did declare it to be the law of proceedings in parliaments, and did then fortify it with many arguments. I know, my lord's memory is not very good; I am sure in this he is very much mistaken.

My lord hath been pleased to complain he hath received much disturbance, and that the noise and shouts have been so great, that they have occasioned some distraction in him. My lords, I am sure his lordship cannot mean us; for I appeal to your lordships, and all that have heard this trial, whether he hath received the least disturbance or interruption from us, or whether we have not treated him with that respect that becomes his dignity, and the discretion that ought to be in the managers of the House of Commons. But I must needs say, that his lordship hath received distraction from those friends or counsel of his that put those many papers into his hand; for he hath read one after another that do contain the same matter over and over again. These, I confess, were sufficient to distract him, or any other that should make use of them. His lordship hath been pleased to go off from the matter of law, to the matter of fact; and backward and forward, so that it is impossible to follow him: And as to the matter of fact, we shall decline to follow him; for though we have not given his lordship any disturbance, yet we submit to your judgment, whether it be regular or according to the course of proceedings, when his lordship hath summed up his evidence, and we that are the prosecutors have concluded ours, he should begin that work again; which, if it should be admitted, we were to reply, and he might rejoin upon us, and so there would be no end of proceedings.—And, my lords, I hope, though this lord hath had the favour to do it, yet it shall not for the future be brought into example, for it will make trials endless.

My lords, for the matter of law, there is nothing that deserves an answer; for though the law does admit the prisoner counsel in matters of law, yet it must be in things doubtful; and if there be any thing of that in our case, I submit it to your lordships. I am sure, I have heard nothing new but what hath been overruled already, unless it be a matter of law which rises upon the matter of fact, and that not proved, to wit, the corruption of witnesses. The last day, all was said by his lordship he could say, and all said by us that we thought fit to say; and now to begin the same matter again, I think ought not to be admitted. We shall not follow his lordship in that way of proceedings, and hope it shall never fall into example.

Sir F. Winnington. My lords, I have only one word to say to your lordships, and that is in relation to the proceedings of the Commons in this cause; for if the cause had not been of an extraordinary nature, we should have stood upon it, that the prisoner ought not, after the prosecutors had concluded, to have taken a

* See vol. 3, p. 1382, of this Collection.

liberty of reading and repeating what he had said over and over again. We know, my lords, there are a sort of men in the world, who are willing to lay hold of any pretences to cavil at our proceedings; and therefore we have let my lord take all this liberty, that so his party might have no colour of complaint. His lordship was pleased to say the last day, that he had not a witness more to produce, nor a reason to give, as I understood him; and therefore he must own that we have been very tender to him in all our proceedings. One thing my lord insinuates to day, which I cannot forbear taking notice of as if we had delayed him: which is without cause; we had used all diligence in preparing ourselves, and were soon ready when the king was pleased to let the parliament sit, and therefore it can be no imputation on us; and truly, if my lord considers the weight of the evidence, I fear he will think his trial comes soon enough now.

L. Staff. My lords, I desire to be rightly understood in one thing, and it is only this; I did not say the House of Commons shouted at me, but the rabble.

L. H. S. Is it your lordships pleasure to adjourn?

Lords. Ay, ay.

L. H. S. Then this House is adjourned to the Parliament Chamber.

[Then the Lords withdrew in their former order, and the Committee of Commons went back to their House.]

Mr. Speaker resumed the chair, and a message was sent from the Lords by sir Timothy Baldwin, and sir Samuel Clarke.

Mr. Speaker; The Lords have commanded us to acquaint this House, that they have appointed William viscount Stafford to be brought to the bar in Westminster-hall to-morrow morning at ten of the clock to receive judgment.

The Commons adjourned to eight of the clock the next morning.

THE SEVENTH DAY:

Tuesday, December the 7th, 1680.

About the hour of eleven, the Lords adjourned into Westminster-hall, going thither in their former order into the court there erected; and Mr. Speaker having left the chair, the Committee of Commons were seated as before.

The Lords being sat, proclamation was made for silence; and the Lord-High-Steward being seated on the woolpack, with Garter principal King of Arms, the Usher of the Black Rod, nine maces attending him, with all the rest of the solemnity, as was at first expressed, took the votes of the peers upon the evidence, beginning at the puisne baron, and so upwards, in this order; the lord Stafford being (as the law requires) absent.

L. H. S. My lords, I am an humble suitor to your lordships, That you will give me leave to

collect your votes as I sit; for I am not able to stand. (Which being granted, the Lord-High-Steward proceeded.)

L. H. S. My lord Butler of Weston, Is William lord viscount Stafford Guilty of the Treason whereof he stands impeached, or Not Guilty?

Lord Butler. Not Guilty upon my honour.

[The same question was put to the rest, whose Names and Votes follow.]

Lord Arundel of Trerice. Not Guilty upon my honour.

Lord Crew. Guilty upon my honour.

Lord Cornwallis. Guilty upon my honour.

Lord Holles. Not Guilty upon my honour.

Lord Wootton. Not Guilty upon my honour.

Lord Rockingham. Guilty upon my honour.

Lord Lucas. Not Guilty upon my honour.

Lord Astley. Guilty upon my honour.

Lord Ward. Not Guilty upon my honour.

Lord Byron. Not Guilty upon my honour.

Lord Hatton. Not Guilty upon my honour.

Lord Leigh. Guilty upon my honour.

Lord Herbert of Cherbury. Guilty upon my honour.

Lord Howard of Escrick. Guilty upon my honour.

Lord Maynard. Guilty upon my honour.

Lord Lovelace. Guilty upon my honour.

Lord Deincourt. Not Guilty upon my honour.

Lord Grey of Werk. Guilty upon my honour.

Lord Brook. Guilty upon my honour.

Lord Norris. Not Guilty upon my honour.

Lord Chandos. Guilty upon my honour.

Lord North and Grey. Guilty upon my honour.

Lord Pagett. Guilty upon my honour.

Lord Wharton. Guilty upon my honour.

Lord Eure. Guilty upon my honour.

Lord Cromwell. Guilty upon my honour.

Lord Windsor. Not Guilty upon my honour.

Lord Conyers. Guilty upon my honour.

Lord Ferrers. Not Guilty upon my honour.

Lord Morley. Not Guilty upon my honour.

Lord Mowbray. Not Guilty upon my honour.

Lord visc. Newport. Guilty upon my honour.

Lord visc. Faulconberge. Guilty upon my honour.

Earl of Conway. Guilty upon my honour.

Earl of Berkeley. Not Guilty upon my honour.

Earl of Macclesfield. Guilty upon my honour.

Earl of Hallifax. Not Guilty upon my honour.

Earl of Feversham. Not Guilty upon my honour.

Earl of Sussex. Guilty upon my honour.

Earl of Guilford. Guilty upon my honour.

Earl of Shaftsbury. Guilty upon my honour.

Earl of Burlington. Guilty upon my honour.

Earl of Ailesbury. Not Guilty upon my honour.

Earl of Craven. Not Guilty upon my honour.

Earl of Carlisle. Guilty upon my honour.

Earl of Bath. Not Guilty upon my honour.

Earl of Essex. Guilty upon my honour.

Earl of Clarendon. Not Guilty upon my honour.

Earl of St. Albans. Not Guilty upon my honour.

Earl of Scarsdale. Guilty upon my honour.

Earl of Sunderland. Guilty upon my honour.

Earl of Thanet. Not Guilty upon my honour.

Earl of Chesterfield. Not Guilty upon my honour.

Earl of Carnarvon. Not Guilty upon my honour.

Earl of Winchelsea. Guilty upon my honour.

Earl of Stamford. Guilty upon my honour.

Earl of Peterborough. Not Guilty upon my honour.

Earl of Rivers. Guilty upon my honour.

Earl of Mulgrave. Guilty upon my honour.

Earl of Berkshire. Guilty upon my honour.

Earl of Manchester. Guilty upon my honour.

Earl of Westmorland. Guilty upon my honour.

Earl of Clare. Guilty upon my honour.

Earl of Bristol. Guilty upon my honour.

Earl of Denbigh. Not Guilty upon my honour.

Earl of Northampton. Guilty upon my honour.

Earl of Leicester. Guilty upon my honour.

Earl of Bridgwater. Guilty upon my honour.

Earl of Salisbury. Guilty upon my honour.

Earl of Suffolk. Guilty upon my honour.

Earl of Bedford. Guilty upon my honour.

Earl of Huntingdon. Guilty upon my honour*.

Earl of Rutland. Not Guilty upon my honour.

Earl of Kent. Guilty upon my honour.

Earl of Oxford. Guilty upon my honour.

Lord Chamberlain. Not Guilty upon my honour.

Marquis of Worcester. Not Guilty upon my honour.

Duke of Newcastle. Not Guilty upon my honour.

Duke of Monmouth. Guilty upon my honour.

Duke of Albemarle. Guilty upon my honour.

Duke of Buckingham. Guilty upon my honour.

Lord Privy-Seal. Guilty upon my honour.

Lord President. Guilty upon my honour.

Lord High-Steward. Guilty upon my honour.

Prince Rupert. Duke of Cumberland. Guilty upon my honour.

L. H. S. My lords, upon telling your Votes I find there are 31 of my lords that think the prisoner Not Guilty, and 55 that have found him Guilty. Serjeant make proclamation for the lieutenant of the Tower to bring his prisoner to the bar. [Which was done, and his lordship came to the bar.]

* See what he said when called as a witness by Oates on his Trial for perjury, A. D. 1685, *infra*.

L. H. S. My lord Stafford, I have but heavy tidings for you; your lordship hath been impeached of High-Treason, you have pleaded Not Guilty; my lords have heard your defence, and have considered of the evidence, and their lordships do find you Guilty of the Treason whereof you are impeached.

L. Staff. God's holy name be praised, my lords, for it.

L. H. S. What can your lordship say for yourself, why judgment of death should not be given upon you according to the law?

L. Staff. My lords, I have but very little to say; I confess I am surprized at it, for I did not expect it; but God's will be done, and your lordships, I will not murmur at it: God forgive those that have sworn falsely against me. My lords, I conceive I have something to say for respite of judgment: I have been at many trials in my life, but I never saw any trial where the party tried did not hold up his hand, which I was never asked to do: I thought it had been a very material point in the law, that by the holding up of the hand he might be known to be the person. I have read lately, since I had the misfortune to be thus accused, sir Edward Coke upon the Pleas of the Crown; and he says, That misnomer, the not giving a man his right name, or addition, is likewise a just cause to arrest the judgment. There is likewise another question, how far it may be valued I know not; I submit it, as I do all, to your lordships. Though I am tried upon the act of the 25th of Edward 3. yet there is nothing more in that act, than what is included in the act of the 13th of this king; and I humbly conceive, my lords, by that act, and the last proviso in it, a peer that is accused and found guilty of the crimes therein mentioned, is to lose his seat in parliament; those are the words; and since it is so put down in the act, it is so to be understood, and that is all the punishment. And I humbly demand, your lordships judgment upon these points, whether it be so or no?

L. H. S. Has your lordship any more to say?

L. Staff. No, my lords, I submit to your lordships, and desire your judgment in these points.

Then the Lords adjourned into the parliament-chamber, and the committee of the Commons returned to their own house; and their Speaker having resumed the chair, the whole body of the House went with their Speaker to the bar of the House of Lords, to demand Judgment of High-Treason against William viscount Stafford, upon the impeachment of the Commons of England, in parliament, in the name of the Commons in parliament, and of all the Commons of England.

The Commons, with their Speaker, went back to their House.

Then the Lords took into consideration what Judgment was to be given upon William viscount Stafford, and it was moved that he might be beheaded. After some debate, the Judges

were asked, whether if any other judgment than the usual judgment for High-Treason were given upon him, it would attain his blood? The judges were of opinion, that the judgment for High-Treason appointed by law, is to be drawn, hanged, and quartered; and in the courts and proceedings below they can take no notice of any judgment for High-Treason but that.

Then sir Creswell Levinz, the king's Attorney General, desired to be heard on his majesty's behalf, which the House gave leave for him to be; who said, he knew no other judgment by law for High-Treason, but drawing, hanging and quartering; if any other judgment were given, it would be prejudicial to his majesty, and be a question in the inferior courts as to his attainder of High-Treason.

Whereupon their lordships ordered, That the Lord High Steward do pronounce the ordinary Judgment of death upon the lord viscount Stafford, as the law hath appointed in cases of High-Treason.

And a Message was sent to the House of Commons from their lordships, by sir Timothy Baldwin and sir Samuel Clark:

Mr. Speaker; We are commanded by the Lords, to acquaint this House, That their lordships are going presently into Westminster-Hall, to give judgment against William viscount Stafford. [Mr. Speaker left the chair]

The committee of Commons appointed for the management of the evidence against the prisoner, with the rest of the Commons, went into Westminster-Hall, to the court there erected; to be present when the Lords gave judgment of High-Treason against him upon the impeachment of the Commons of England. After a short time their lordships were adjourned into Westminster-Hall, coming in their former order into the court there erected; where being seated, and the Lord High Steward being on the woolsack, attended by Garter principal king of arms, the usher of the black rod, eight of the serjeants at arms kneeling with their maces, the ninth making proclamation for silence; which being done, the Lord High Steward gave Judgment upon the prisoner as followeth:

Lord High Steward. "My lord Stafford; That which your lordship hath said in arrest of judgment hath been found by my lords, upon due consideration had of it, to be of no moment at all. It is no essential part of any trial, that the prisoner should hold up his hand at the bar; there is no Record ever made of it when it is

done; the only use of it is to shew the Court who the prisoner is, and when that is apparent, the Court does often proceed against him, though he refuse to hold up his hand at the bar; therefore the omission of that ceremony, in this case, is no legal exception, as all the judges have declared.

"And as to the provisos in the statute of the 13th year of this king, their lordships do find that they are in no sort applicable to this case, forasmuch as the proceedings against your lordship are not grounded upon that statute, but upon the statute of 25 Edw. 3. And yet if the proceedings had been upon the latter statute, the provisos therein could have done your lordship no service at all.

"My part therefore which remains, is a very sad one: For I never yet gave sentence of death upon any man, and am extremely sorry that I must begin with your lordship.

"Who would have thought that a person of your quality, of so noble an extraction, of so considerable estate and fortune, so eminent a sufferer in the late ill times, so interested in the preservation of the government, so much obliged to the moderation of it, and so personally obliged to the king and his royal father for their particular favours to you, should ever have entered into so infernal a conspiracy as to contrive the murder of the king, the ruin of the state, the subversion of religion, and, as much as in you lay, the destruction of all the souls and bodies in three Christian nations?

"And yet the impeachment of the House of Commons amounts to no less a Charge, and of this Charge their Lordships have found you Guilty.

"That there hath been a general and desperate conspiracy of the Papists, and that the death of the king hath been all along one chief part of the conspirators' design, is now apparent beyond all possibility of doubting.

"What was the meaning of all those treaties which were published about two years since against the oath of allegiance, in a time when no man dreamt of such a controversy? What was the meaning of Father Conyers's sermon upon the same subject, but only because there was a demonstration of zeal, as they call it, intended against the person of the king? Which the scruples arising from that oath did somewhat hinder.

"To what purpose were all the correspondencies with foreign nations? The collections of money among the Fathers abroad and at home? What was the meaning of their governing themselves here by such advices as came frequently from Paris and St. Omers? And how shall we expound that letter which came from Ireland, to assure the Fathers here, that all things were in a readiness there too, as soon as the blow should be given?

"Does any man now begin to doubt how London came to be burnt? Or by what ways

* "December 7, 1680. Ordered by the Lords spiritual and temporal in parliament assembled, That the thanks of this House be given to the Lord High Steward, for his speech this day to the lord viscount of Stafford in Westminster Hall, at what time his lordship pronounced the judgment of this House against him. And his lordship is hereby desired to print and publish the same. Jo. Brown, Cleric' Parliamentor."

* "Lord Nottingham, when he gave Judgment, delivered it with one of the best speeches

and means poor Justice Godfrey sell? And is it not apparent by these instances, that such is the frantic zeal of some bigotted Papists, that they resolve, no means to advance the Catholic cause shall be left unattempted, though it be by fire and sword?

"My lord, as the Plot in general is most manifest, so your lordship's part in it hath been too too plain. What you did at Paris, and continued to do at Tixall in Staffordshire, shews a settled purpose of mind against the king; and what you said at London touching honest Will, shews you were acquainted with that conspiracy against the king's life which was carrying on here too: And in all this there was a great degree of malice; for your lordship at one time called the king heretic and traitor to God; and at another time you reviled him for misplacing his bounty, and rewarding none but traitors and rebels.

"And thus you see that which the wise man forewarned you of, is come upon you: 'Curse not the king, no, not in thy heart: For the birds of the air shall reveal, and that which hath wings will declare the matter.'

"Three things I shall presume to recommend to your lordship's consideration. In the first place, your lordship now sees how it hath pleased God to leave you so far to yourself, that you are fallen into the snare, and into the pit, into that very pit which you were digging for others. Consider therefore, that God Almighty never yet left any man, who did not first leave him.

"In the next place, think a little better of it than hitherto you have done, what kind of religion that is, in which the blind guides have been able to lead you into so much ruin and destruction as is now like to besal you.

"In the last place, I pray your lordship to consider, That true repentance is never too late. A devout penitential sorrow, joined with an humble and hearty confession, is of mighty power and efficacy both with God and man.

"There have been some of late who have refused to give God the glory of his justice by acknowledging the crimes for which they were condemned; nay, who have been taught to believe, that it is a mortal sin to confess that crime in public, for which they have been absolved in private, and so have not dared to give God that glory which otherwise they would have done.

"God forbid your lordship should rest upon forms; God forbid your lordship should be found among the number of those poor mistaken souls, whom the first thing that undeceives is death itself.

"Perhaps your lordship may not much esteem the prayers of those whom you have long been taught to miscall heretics; but whether

he had ever made. But he committed one great indecency in it: for he said, Who can doubt any longer that London was burned by Papists, though there was not one word in the whole Trial relating to that matter." Burnet.

you do or no, I am to assure your lordship, That all my Lords here, even they that have condemned you, will never cease to pray for you, that the end of your life may be Christian and pious, how tragical soever the means are that must bring you thither.

"And now, my lord, this is the last time that I can call you my lord; for the next words I am to speak will attain you. The Judgment of the Law is, and this Court doth award, That

" 'You go to the place from whence you came; from thence you must be drawn upon a hurdle to the place of execution: When you come there, you must be hanged up by the neck, but not till you are dead; for you must be cut down alive, your privy-members must be cut off, and your bowels ript up before your face, and thrown into the fire. Then your head must be severed from your body, and your body divided into four quarters; and these must be at the disposal of the king. And God Almighty be merciful to your soul.' "

Prisoner. My lords, I humbly beseech you give me leave to speak a few words; I do give your lordships hearty thanks for all your favours to me. I do here, in the presence of God Almighty declare, I have no malice in my heart to them that have condemned me; I know not who they are, nor desire to know; I forgive them all, and beseech your lordships all to pray for me. My lords, I have one humble request to make to your lordships, and that is, my lords, That the little short time I have to live a prisoner, I may not be a close prisoner as I have been of late, but that Mr. Lieutenant may have an Order that my wife and children and friends may come at me. I do humbly beg this favour of your lordships, which I hope you will be pleased to give me.*

L. H. S. My lord Stafford, I believe I may, with my lords leave, tell you one thing further, That my lords, as they proceed with rigour of justice, so they proceed with all the mercy and compassion that may be; and therefore my lords will be humble suitors to the king, that he will remit all the punishment but the taking off your head.

Prisoner, (weeping). My lords, your justice does not make me cry, but your goodness.

* Macpherson, in what he calls (see the Introduction to lord Clarendon's Case; vol. 6, p. 291, of this Work,) "The Life of James the Second, written by himself," (p. 110.) says, "Carlisle and Escric had voted Stafford their kinsman Guilty, yet moved to change his sentence to perpetual banishment. This being rejected they desired to see him under pretence of carrying the bishop of London and Dr. Burnet to him. They only wanted to get something out of him against the duke of York: but the Lords would not allow them to see him alone, without a Recorder present, so their project was disappointed."

Then the Lord High Steward broke his staff, and the Lords adjourned into the Parliament Chamber, and the Commons returned to their House, and the prisoner with the axe borne before him with the edge towards him (it being carried contrarily during his trial) was sent back to the Tower.*

* Burnet tells us, that lord Stafford behaved himself during the whole time, and at the receiving his Sentence, with much more constancy then was expected from him. And he thus proceeds: "Within two days after he sent a message to the Lords, desiring that the bishop of London" [Compton, one of the SEVEN; see their Case, A. D. 1688, *infra*.] "and I might be appointed to come to him. We waited on him. His design seemed to be only to possess us with an opinion of his innocence, of which he made very solemn protestations. He heard us speak of the points in difference between us and the Church of Rome with great temper and attention. At parting he desired me to come back to him next day; for he had a mind to be more particular with me. When I came to him, he repeated the protestations of his innocence; and said, he was confident the villainy of the witnesses would soon appear: he did not doubt I should see it in less than a year. I pressed him in several points of religion; and urged several things, which he said he had never heard before. He said, these things on another occasion would have made some impression upon him; but he had now little time, therefore he would lose none in controversy; so I let that discourse fall. I talked to him of those preparations for death in which all Christians agree: he entertained these very seriously. He had a mind to live, if it was possible: he said, he could discover nothing with relation to the king's life, protesting that there was not so much as an intimation about it that had ever past among them. But he added, that he could discover many other things, that were more material than any thing that was yet known, and for which the duke would never forgive him; and of these, if that might save his life, he would make a full discovery. I stopped him when he was going on to particulars; for I would not be a confident in any thing in which the public safety was concerned. He knew best the importance of those secrets; and so he could only judge, whether it would be of that value as to prevail with the two Houses to interpose with the king for his pardon. He seemed to think it would be of great use, chiefly to support what they were then driving on with relation to the duke. He desired me to speak to lord Essex, lord Russel, and sir William Jones. I brought him their answer the next day; which was, that if he did discover all he knew concerning the Papists' designs, and more particularly concerning the duke, they would endeavour that it should not be insisted on, that he must confess those particulars for which he was judged. He asked me, what if he should

His majesty afterward ordered the Lord High-Chancellor to issue out under the great seal of England the following writs for executing the said late viscount Stafford; the first being to the lieutenant of the Tower, to deliver him on the 29th of December 1680, between nine and eleven o'clock in the forenoon,

name some who had now great credit, but had once engaged to serve their designs: I said, nothing could be more acceptable than the discovering such disguised Papists, or false Protestants: yet upon this I charged him solemnly not to think of redeeming his own life by accusing any other falsely, but to tell the truth, and all the truth, as far as the common safety was concerned in it. As we were discoursing of these matters, the earl of Carlisle came in. In his hearing, by lord Stafford's leave, I went over all that had passed between us, and did again solemnly adjure him to say nothing but the truth. Upon this he desired the earl of Carlisle to carry a message from him to the House of Lords, that whensoever they would send for him he would discover all that he knew: upon that he was immediately sent for. And he began with a long relation of their first consultations after the Restoration about the methods of bringing in their religion, which they all agreed could only be brought about by a toleration. He told them of the earl of Bristol's project; and went on to tell who had undertaken to procure the toleration for them: and then he named the earl of Shaftsbury. When he named him he was ordered to withdraw: and the Lords would hear no more from him. It was also given out, that in this I was a tool of lord Halifax's to bring him thither to blast lord Shaftsbury. He was sent back to the Tower: and then he composed himself in the best way he could to suffer, which he did with a constant and undisturbed mind: he supped and slept well the night before his execution, and died without any shew of fear or disorder. He denied all that the witnesses had sworn against him. And this was the end of the Plot. I was very unjustly censured on both hands. The earl of Shaftsbury railed so at me that I went no more near him. And the duke was made believe, that I had persuaded lord Stafford to charge him, and to discover all he knew against him: which was the beginning of the implacable hatred he shewed on many occasions against me. Thus the innocentest and best meant parts of a man's life may be misunderstood, and highly censured."

It is certainly worthy of attention, that in the course of this effort to save his life, lord Stafford did not confess any of, according to Burnet's expression, "those particulars for which he was judged." If he had made such a confession, it might yet leave many minds unconvinced of his guilt. In bad times, it is not surprising confessions of uncommitted crimes should be made for the purpose of obtaining mitigation of punishment. With respect to lord Bacon's Confession, (See his case Vol. 2, p. 1087.)

at the usual place without the Tower-gate, to the sheriffs of London and Middlesex; and the other being for them then and there to receive him into their custody, and to lead him to the usual place upon Tower-hill, and there to cause his head to be cut off, and severed from his body: which writs were in form following:

‘ Carolus Secundus Dei gratia Angliæ, Scotiæ, Franciæ, et Hiberniæ Rex, fidei defensor, &c. Locumtenenti Turris nostræ London salutem: Cum Willus Vicecomes Stafford, per Communes Regni nostri Angliæ in Parlamento assemblat’, de alta prodicione necnon diversis aliis criminibus et offensis per ipsum perpetrat’ et commissis, impetit’ fuit, ac superinde per Dominos Temporales in præsentî Parlamento nostro convent’, triat’, convict’ et debita juris forma attinct’ fuit, et morti adjudicat’ existit; cujus quidem Judicii executio adhuc restat facienda. Cumq; prædictus Vicecomes Stafford in Turri nostra London, sub custodia tua detent’ existit: Præcipimus tibi et per præsentes firmiter injungendo mandamus, quod in et super vicesimum nonum diem instantis mensis Decembris, inter horas nonam et undecimam, ante Meridiem ejusdem diei, ipsum Vicecomitem Stafford, usq; locum usualement extra portam Turris prædictæ ducas; ac ipsum, Vicecomitibus Civitatis nostræ London et Middlesex, adtunc et ibidem deliberes: Quibus quidem Vicecomitibus nos per aliud breve eis inde direct’, præcipimus prædictum Vicecomitem Stafford adtunc et ibidem recipere,

there are anecdotes that the bribes were not received by him but by his servants, and that he was either totally ignorant of them, or at worst no otherwise blameable than by not exerting himself to prevent the practice, and that his confession proceeded merely from an apprehension of exasperating government, and aggravating his own punishment by a denial. Pliny relates an anecdote of this sort: ‘ Confessus est (sc. Licinianus) quidem incestum. Sed incertum utrum quia verumerat; an quia graviora metuebat, si negasset. Frenebat enim Domitianus, æstunabatque ingenti invidia, destitutus.—Celer, cui Cornelia objiciebatur, cum in comitio virgis cæderetur, in hac voce perstiterat; Quid feci? Nihil feci. Ardebat ergo Domitianus, et crudelitatis et iniquitatis infamiâ. Arripit Licinianum. Ille, ab iis quibus erat curæ, præmonetur, si comitium et virgas pati nolle, ad confessionem confugeret, quasi ad veniam fecit—Locutus est pro absente Herennius Senecio, tale quiddam, quale est illud, *Κῆρας Πάρεστος*: [See the Iliad, Book 18, line 20.] ‘ Ait enim, Ex advocato nuncius factus sum. Recessit Licinianus. Gratum hoc Domitiano; adeo ut gaudio proderetur, diceretque, absolvit nos Licinianus. Adjecit etiam non esse verendum ejus instandum. Ipsi vero permisit si quâ posset ex rebus suis rapere antequam bona publicarentur, exiliumque molle, velut præmium, dedit.’

‘ ut fiat executio Judicii prædicti, modo et forma prout dictis Vicecomitibus London et Middlesex, per aliud breve nostrum prædictum præcipimus; Et hoc nullatenus omittas, sub periculo incumbente; aliquo Judicio, Lege, Ordinatione, seu mandato præantea habit’, fact’, ordinat’, seu dat’ in contrarium non obstante. Teste meipso apud Westm. decimo octavo die Decembris, Anno regni nostri tricesimo secundo. BARKER.’

‘ Carolus Secundus Dei gratia Angliæ, Scotiæ, Franciæ, et Hiberniæ Rex, fidei defensor, &c. Vic. London et Vic. Middlesex salutem: Cum Willus Vicecomes Stafford, per Communes regni nostri Angliæ in Parlamento assemblat’, de alta prodicione, necnon diversis aliis criminibus et offensis per ipsum perpetrat’ et commissis impetit’ fuit; ac superinde per Dominos Temporales in præsentî Parlamento nostro convent’, triatus, convict’ et debita juris forma attinct’ fuit et morti adjudicat’ existit; cujus quidem Judicii executio adhuc restat facienda; Præcipimus vobis, et per præsentes firmiter injungendo mandamus, quod in et super vicesimum nonum diem hujus instantis Decembris, inter horas nonam et undecimam, ante meridiem ejusdem diei, dictum Vicecomitem Stafford, extra Portam Turris nostræ London, vobis tunc et ibidem deliberandum, prout per aliud breve Locumtenenti Turris nostræ London directum præcepimus, in custodiam vestram adtunc et ibidem recipiatis, et ipsum sic in custodia vestra existentem, statim usque usualement locum super le Tower-hill ducatis; ac caput ipsius Willi. Vicecomitis Stafford, adtunc et ibidem amputari, ac a corpore suo omnino separari faciatis; aliquo Judicio, Lege, Ordinatione, seu Mandato præantea habit’, fact’, ordinat’, seu dat’ in contrarium, non obstante: Et hoc (sub periculo incumbente) nullatenus omittatis. Teste meipso apud Westm. decimo octavo die Decembris, Anno regni nostri tricesimo secundo. BARKER.’

There were two Writs to the Sheriffs, both alike verbatim, one delivered in London, the other in Middlesex.

Whereupon the Sheriffs doubting whether that was a sufficient authority for them to execute the prisoner by beheading only, the sentence of death being otherwise given, petitioned the Lords in parliament to take the premises into consideration, and to make such Order as should be agreeable to right and justice, as by the following Petition appears.

‘ To the Right Honourable the Lords Temporal in Parliament assembled; the humble Petition of Slingsby Bethel, esq.; and Henry Cornish, esq.; sheriffs of London and Middlesex:

‘ Sheweth; That your petitioners have received a writ under the great seal of England, reciting, that judgment had been given by your lordships against William viscount Stafford, for High-Treason, and divers other crimes and offences, upon the Impeachment

of the Commons in Parliament assembled, and commanding your Petitioners to cause the said viscount Stafford's head to be severed from his body upon the 29th day of this instant Dec., notwithstanding any judgment, law, ordinance, or command to the contrary :
 'That' your Petitioners have not as yet received any command from your lordships for executing the said judgment. May it therefore please your lordships to take the premises into consideration, and to make such order therein, as shall be agreeable to right and justice. And your Petitioners shall pray, &c.'

Upon which the Lords did declare as followeth :

December 21, 1680.

'Upon application from the sheriffs of London and Middlesex, making some scruples concerning the execution of the late lord viscount Stafford, which were found by this House to be unnecessary, this House do declare, That the king's writ ought to be obeyed.'

The said sheriffs likewise made application to the House of Commons upon the aforesaid matter, who made the following resolve :

December 23, 1680.

'Resolved, &c. That this House is content that the Sheriffs of London and Middlesex do execute William late viscount Stafford, by severing his head from his body only.'

Accordingly, on the Wednesday following, being the 29th of December, between nine and ten in the forenoon, the two sheriffs, with a considerable number of gentlemen on horseback, went to the Tower-gate, and there demanded William Howard, late viscount Stafford; when a gentleman belonging to the Lieutenant of the Tower, told the Sheriffs, That the Lieutenant would wait on them presently, and bring the prisoner to the bars: To which the sheriffs answered, That they must preserve the privileges and bounds of the city: An officer replied, 'Sir, We were ordered to draw up two companies from the gate to the bar, and there you are to receive the prisoners.'

Sheriffs. Gentlemen, we will preserve the liberties of the city: And we are come at the gate to demand the prisoner; whether the Lieutenant will deliver him or no, we demand

* For the debates in the House of Commons concerning the king's power to vary the execution, see 4 Cobbett's Parl. Hist. 1261. Mr. Fox speaking of the fatality as it were, with which in the transactions relative to the Popish Plot men's minds were divested of all their wonted sentiments of justice and humanity; observes, that "even after the condemnation of Stafford, lord Russel himself, whose character is wholly (this instance excepted) free from the stain of rancour or cruelty stickled for the severer mode of executing the sentence, in a manner which his fear of the king's establishing a precedent of pardoning in cases of impeachment, (for this no doubt was his motive) cannot satisfactorily excuse." Fox's James II.

him. And accordingly, he was delivered to the sheriffs between the gates and the bars.

Before the prisoner came, several people were upon the scaffold, among which were two appointed to write. The headsman came up with two blocks, one old, one new, in a bag; also the axe covered with a cloth. The new block being taken out, was covered over with black, and laid upon a piece of black bays, about two yards and a half long, upon which the prisoner was to stretch himself. Then the coffin was brought up, being coloured with two letters, W. S. 1680. Then the prisoner came upon the scaffold, and asked for the executioner; upon his appearing, he asked him, If he had received money for the cloaths? being answered, No, his man took out a purse of 5*l.*, which the headsman objected against, and the prisoner gave him two guineas more. After a short pause, he stepped to one side of the scaffold, and taking a Paper out of his pocket, read it as his Speech, [Which came out the very same day, before two of the clock, in print, as his Speech] and was as follows:

"By the permission of Almighty God, I am this day brought hither to suffer death, as if I were guilty of high-treason. I do most truly, in the presence of the eternal, omnipotent, and all-knowing God, protest, upon my salvation, That I am as innocent as it is possible for any man to be, so much as in a thought, of the crimes laid to my charge.

"I acknowledge it to be a particular grace and favour of the Holy Trinity, to have given me this long time to prepare myself for eternity. I have not made so good use of that grace as I ought to have done, partly by my not having so well recollected myself as I might have done, and partly, because not only my friends, but my wife and children have for several days been forbidden to see me, but in the presence of one of my warders. This hath been a great trouble and distraction unto me, but I hope God of his infinite mercy will pardon my defects, and accept of my good intentions.

"Since my long imprisonment, I have considered often, what could be the original cause of my being thus accused, since I knew myself not culpable, so much as in a thought; and I cannot believe it to be upon any other account than my being of the church of Rome. I have no reason to be ashamed of my religion, for it teacheth nothing but the right worship of God, obedience to the king, and due subordination to the temporal laws of the kingdom. And I do submit to all articles of faith believed and taught in the Catholic church, believing them to be most consonant to the word of God. And whereas it hath so much and often been objected, That the church holds that sovereign princes, excommunicated by the pope, may, by their subjects, be deposed or murdered: As to the murder of princes, I have been taught as a matter of faith in the Catholic church, that such doctrine is diabolical, horrid, detestable, and contrary to the law of God, nature, and nations; and as such, from my heart I re-

nounce and abominate it. As for the doctrine of deposing princes, I know some divines of the catholic church hold it; but as able and learned as they have writ against it: But it was not pretended to be the doctrine of the church, that is, any point of catholic faith: Wherefore I do here in my conscience declare, that it is my true and real judgment, that the same doctrine of deposing kings, is contrary to the fundamental laws of this kingdom, injurious to sovereign power, and consequently would be in me or any other of his majesty's subjects, impious and damnable. I believe and profess, that there is one God, one Saviour, one Holy Catholic Church, of which, through the mercy, grace, and goodness of God, I die a member.

"To my great and unspeakable grief, I have offended God in many things, by many great offences; but I give him most humble thanks, not in any of those crimes of which I was accused.

"All the members of either House having liberty to propose in the House what they think fit for the good of the kingdom; accordingly, I proposed what I thought fit; the House is judge of the fitness or unfitness of it; and I think I never said any thing that was unfitting there, or contrary to the law and use of parliament; for certainly if I had, the Lords would (as they might) have punished me: so am not culpable before God or man.

"It is much reported of indulgencies, dispensations, and pardons, to murder, rebel, lie, forswear, and commit such other crimes held and given in the church; I do here profess, in the presence of God, I never learnt, believed, or practised any such thing, but the contrary; and I speak this without any equivocation or reservation whatsoever: and certainly, were I guilty, either myself, or knew of any one that were guilty whosoever that were so, of any of those crimes of which I am accused, I were not only the greatest fool imaginable, but a perfect mad-man, and as wicked as any of those that so falsely have accused me, if I should not discover any ill design I knew in any kind, and so upon discovery save my life, I have so often had so fair occasions proposed unto me, and so am guilty of self-murder, which is a most grievous and heinous sin; and though I was at last impeached at the Lords bar, yet I have great grounds to believe, that I was first brought to trial, on the belief, that to save my life, I would make some great discovery; and truly so I would, had I known any such thing of any ill design, or illegal dangerous Plot, either of myself, or any other person whatsoever, without any exception. But had I a thousand lives, I would lose them all, rather than falsely accuse either myself or any other whatsoever. And, if I had known of any treason, and should thus deny it, as I do now upon my salvation at this time, I should have no hope of salvation, which now I have, through the merits of Christ Jesus.

"I do beseech God to bless his majesty, who is my lawful king and sovereign, whom I was

always, by all laws human and divine, bound to obey; and I am sure that no power on earth, either singly, or altogether, can legally allow me, or any body else, to lift up a hand against him or his legal authority. I do hold, that the constitution of the government of this kingdom is the only way to continue peace and quietness, which God long continue.

"Next to treason, I hold murder in abhorrence, and have ever done and do; and I do sincerely profess, that if I could at this time free myself immediately, and establish what religion I would, and what government I would, and make myself as great as I could wish, and all by the death of one of these fellows, that by their perjuries have brought me to the place where I am, I so much abhor to be the cause of any man's death, that I would not any way be the cause of their murder; how much less would I endeavour the assassination of his majesty, whom I hold to be as gracious a king as ever this, or any other nation had, and under whom the people may enjoy their liberties, as much as ever any did? And if it please God to grant him life and happiness, according as I have always wished and prayed for, I am morally persuaded, that he, and all his dominions, will be as happy and prosperous as ever people were, which I beseech God grant.

"I do most humbly ask pardon of the Almighty and All-merciful God, for all the great offences I have committed against his divine majesty; and I know he would not have the death and confusion of a sinner, but that he may repent and live; in that assurance I hope, knowing he never despiseth a contrite heart; and though I have not so feeling a contrition as I would, yet I have it as well as I can, and I doubt not but that God will accept of the good-will.

"I do desire that all people will forgive me any injury that I have done them in any thing, either wilfully or by chance; and I do heartily forgive all people in this world that have injured me; I forgive even those perjured men, that so falsely have brought me hither by their perjuries.

"I do now upon my death and salvation aver, That I never spoke one word either to Oates or Turberville, or, to my knowledge, ever saw them until my trial; and for Dugdale, I never spoke unto him of any thing, but about a foot-boy, or foot-man, or foot-race; and never was then alone with him: all the punishment that I wish them, is, that they may repent and acknowledge the wrong that they have done me; then it will appear how innocent I am: God forgive them! I have a great confidence that it will please Almighty God, and that he will, in a short time, bring truth to light; then you, and all the world, will see and know what injury they have done me.

"I hope that I have made it appear that I have some conscience; for if I had none, certainly I would have saved my life, by acknowledging myself guilty; which I could have done, though I know I am not in the least

guilty. And I having some conscience, make very ill use of it, for I throw myself into eternal pain, by thus plainly and constantly denying at my death, the knowledge of what I am accused of in the least.

"I have said thus much in discharge of my conscience, and do aver, upon my salvation, what I have said to be really true.

"I shall say little of my trial; and whether it were all according to the known law, I am too much a party to say much of it: if it were not so, God forgive him or them that were the cause of it.

"My judges were all persons of honour, who were all as much bound to judge rightly, as if they had been upon oath upon what was legally proved; and not to vote but according as in their consciences they were satisfied; and if any of them did otherwise, upon any account whatsoever, I beseech God forgive them, I do heartily.

"I shall end with my hearty prayers for the happiness of his majesty, that he may enjoy all happiness in this world and the world to come, and govern his people according to the laws of God; and that the people may be sensible what a blessing God hath so miraculously given them, and obey him as they ought. I ask pardon with a prostrate heart of Almighty God, for all the great offences that I have committed against his divine majesty, and hope, through the merits and passion of Christ Jesus, to obtain everlasting happiness, into whose hands I commit my spirit, asking pardon of every person that I have done any wrong unto; I do freely forgive all that have any ways wronged me; I do, with all the devotion and repentance that I can, humbly invoke the mercy of our blessed Saviour.

"I beseech God not to revenge my innocent blood upon the nation, or on those that were the cause of it, with my last breath. I do with my last breath truly assert my innocency, and hope the omnipotent, all-seeing, just God will deal with me accordingly."

His Speech being ended, he delivered several copies signed with his own hand, to Mr. Sheriff Cornish, and other gentlemen about him; one whereof, wrote with his own hand, he sent to the king. He then desired he might have li-

berty to pray in his own way, which being granted, he kneeled down by the block, and taking out of his pocket another paper, he read a Latin prayer; which done, he gave the paper to Mr. Sheriff Bethel, and then spoke to the people about the scaffold to this effect; "God bless you, gentlemen; God preserve his majesty; he is as good a prince as ever governed you: obey him as faithfully as I have done, and God bless you all, gentlemen." Then a minister applied himself, and said, 'Sir, do you disown the indulgencies of the Romish Church?' To which he answered with great passion, 'Sir, What have you to do with my religion? However, I do say, that the Church of Rome allows no indulgences for murder, lying, &c. and whatever I have said is true.'

Minister. Have you received no absolution?

Ans. I have received none at all.

Minister. You said that you never saw those witnesses?

Ans. I never saw any of them but Dugdale, and that was at a time when I spoke to him about a foot-boy.

Then turning about to his friends, he distributed among them his watch, two rings off his fingers, his staff, and his crucifix from off his neck; and his gentleman stripping him of his coat and peruke, put on his head a silk cap; and having accommodated his hair, shirt and waistcoat for the execution, he laid down his neck on the block and stretched himself.

The Executioner being demanded by the Sheriffs, Whether he had any sign, he answered, No. Whereupon the prisoner rose up, and asked, What they wanted: to which it was answered, What sign will you give?

Ans. No sign at all: take your own time; God's will be done.

Whereupon the Executioner said, 'I hope you forgive me:' he made answer, 'I do.' Then lying down again, the executioner at one blow severed his head from his body, save only a small part of the skin and wind-pipe, which was immediately cut off with a knife. After which, the headman holding up the head in his hand, carried it about the scaffold, shewing it to the people, and saying, 'Here is the head of a Traitor. The corpse with the head were put into a coffin, and conveyed to the Tower, where they were interred.

HOUSE OF COMMONS, December 30, 1680.

Ordered, That the Committee appointed to prepare Evidence against the Lords in the Tower, do look into the Evidence against the Four Popish Lords in the Tower; and do report their opinions to the House, in order to the further directions and proceedings of the House against them.

January 5, 1681.

The House being informed, That one Bowyer was, upon intimation given by the Com-

mittee appointed to prepare Evidence against the Popish Lords in the Tower, taken into custody:

Ordered, That the said Bowyer be delivered into the hands of the serjeant at arms attending this House; and that he be brought to the bar of this House to-morrow morning at ten of the clock, in order to his examination.

HOUSE OF LORDS, May 21, 1685.

The House being made acquainted, That those Lords who were committed by this

House to the Tower, upon Impeachments of Treason from the House of Commons, have entered into recognizances, to appear before this House the first day of the next parliament, which is this day; and that the said lords are attending accordingly: the earl of Powis, earl of Danby, the lord Arundel of Warder, and the lord Bellasis, were called to the bar, and made their personal appearance; and then were commanded to withdraw.

Which being done, a Petition was presented, from the earl of Powis, the lord Arundel, and the lord Bellasis; and another Petition from the earl of Danby; which the House received, and commanded to be read, as follow:

“To the right hon. the Lords spiritual and temporal in Parliament assembled. The humble Petition of the right hon. William earl of Powis, Henry lord Arundel of Warder, and John lord Bellasis.

“Humbly sheweth; That your Petitioners, by several commitments of high treason, were sent prisoners to the Tower of London, in or about the month of October, in the year of our Lord 1678, upon the single testimony of Titus Oates, who, upon several trials, stands now detected and convicted of perjury, in those very matters upon which he most maliciously framed his accusation against your Petitioners.—That your Petitioners are and were always innocent of those detestable treasons laid to their charges, and of all traitorous designs and conspiracies whatsoever.—That they hope your lordships are fully satisfied of their innocence; notwithstanding they continue still under the same imprisonment, without any prospect of enlargement but from your lordships justice.—Wherefore, forasmuch as it lies in the power of your lordships to grant them a speedy enlargement, they humbly pray your lordships would be pleased to order that your Petitioners may be forthwith discharged, and in such manner as the innocency and honour of your Petitioners may be vindicated to posterity. And they shall ever pray, &c. POWIS, HEN. ARUNDEL, BELLASIS.”

Next, was read the earl of Danby's Petition.

“To the right hon. the Lords spiritual and temporal in Parliament assembled. The humble Petition of Thomas earl of Danby.

“Most humbly sheweth; That your Petitioner hath been detained a prisoner almost five years in the Tower of London, videlicet, from the 16th of April, 1679, to the 12th of February, 1683-4, upon an Impeachment brought against your Petitioner, on bare suggestions of crimes, without any oath or affidavit whatsoever made against your Petitioner.—That your Petitioner did often, during that time, endeavour to have procured bail, to appear and answer before your lordships to any crime which should be objected against him; but could never obtain the same, until the 12th of February, 1683-4, at which time he was bailed to appear before

VOL. VII.

your lordships the first day of the sitting of the next parliament, as may appear by the recognizance which (as your Petitioner is informed) is now brought up to your lordships by the lord chief justice of the King's Bench.—That, in pursuance of the said recognizance, your Petitioner doth now present himself before your lordships; humbly praying, that your lordships will be pleased to take into your considerations the case of your Petitioner (who has the honour to be one of the members of your House), and to grant him a speedy relief against his long and tedious imprisonment, either by trial, or by such other ways as your lordships shall judge most convenient; and that in the mean time your lordships will be pleased, either to order the continuation of the said bail under which your Petitioner now stands, or to direct such other bail as your lordships shall think fit. And your Petitioner shall pray, &c. DANBY.”

The House hereupon made the ensuing Order: “Upon reading the Petition of William earl of Powis, Henry lord Arundel of Warder, and John lord Bellasis; as also the Petition of Thomas earl of Danby; shewing, that they have been prisoners several years, and are now ready to make their appearance; they were called in, and made their personal appearance at the bar: It is thereupon ordered, by the Lords spiritual and temporal in parliament assembled, That the appearance of the said earl of Powis, lord Arundel of Warder, lord Bellasis, and earl of Danby, be, and is hereby, recorded; and that the said earl of Powis, lord Arundel, lord Bellasis, and earl of Danby, do attend until this House, upon their several cases, shall take further order.”

May 22.

Upon consideration of the cases of the earl of Powis, lord Arundel of Wardour, the lord Bellasis, and the earl of Danby, contained in their petitions: after some debate; This question was proposed; “Whether the order of the 19th of March, 1678-9; shall be reversed and annulled, as to impeachments?” The question being put, “Whether this question shall be now put?” It was resolved in the affirmative. Then, the question was put, “Whether the order of the 19th of March, 1678-9, shall be reversed and annulled, as to impeachments?” It was resolved in the affirmative.

“Dissentiente, JOHN EARL OF RADNOR.”

The earl of Anglesey, before the putting of the abovesaid question, desired leave of the House to enter his dissent, if the question were carried in the affirmative; which was granted.

Several other Lords desired leave to enter their Dissents:

“According to the right of peers to enter their Dissent and Protestation against any vote propounded and resolved upon any question in parliament, we do enter our Dissent and Protestation to the aforesaid vote or resolution; for these reasons, among many others: 1. Because it doth, as we conceive, extrajudicially, and without a particular cause before us, en-

5 H

deavour an alteration in a judicial rule and order of the House in the highest point of their power and judicature. 2. Because it shakes and lays aside an order made and renewed upon long consideration, debate, report of committees, precedents, and former resolutions, without permitting the same to be read, though called for by many of the peers, against weighty reasons, as we conceive, appearing for the same, and contrary to the practice of former times. 3. Because it is inherent in every court of judicature, to assert and preserve the former rules of proceedings before them, which therefore must be steady and certain; especially in this high court; that the subject and all persons concerned may know how to apply themselves for justice: the very Chancery, King's-bench, &c. have their settled rules and standing orders, from which there is no variation. ANGLESEY. CLARE. STANFORD."

May 27.

A Bill was offered to the House, by the king's allowance, and signed by his majesty; which was received, and read the first time. It was entitled, "An Act for reversing of the lord viscount Stafford's Attainder*."

* In the year 1800, certain proceedings were instituted on behalf of lady Anastasia Stafford Howard, and sir William Jerningham, in respect of their interests in two baronies of Stafford: and recourse was had to the advice of Mr. Hargrave, who upon the occasion employed the acuteness of his sagacity, the unweariedness of his diligence, and the copiousness of his learning, with that high degree of zeal and power, by which his professional exertions are so eminently characterised. He composed a very full and learned disquisition, of which a few copies were printed, with the title of, "Opinion and Argument of Mr. Hargrave, as to the Right of Lady Anastasia Stafford Howard, to the New Barony of Stafford, under the Letters Patent of 16th of King Charles the First, notwithstanding the Attainder of her Ancestor, Lord Viscount Stafford, in 1680, for Treason, in being concerned in the alledged Popish Plot: Including Remarks on the Origin and Progress of that memorable Accusation, and on his Lordship's Trial and Execution, made with a view to assist an Application for obtaining an Act of Parliament to reverse such Attainder. [Written in the year 1800.]" Through the kindness of lord Erskine and Mr. Hargrave, I possess a copy of this work, which it is to be hoped the learned author will, at a proper time, communicate to the world. A very brief exhibition of the topics discussed in it, will suffice to shew the interesting and important nature of its contents.

Mr. Hargrave first considers, Whether a barony be such a tenement* within the statute

* It is said, the reason of a certain place from whence to take the title, was to make an estate-tail within the statute *De Donis*, which

June 1.

This House being moved, on the behalf of several peers of this House, which were bail for the appearance of William earl of Powis, Thomas earl of Danby, Henry lord Arundel of Wardour, John lord Bellasis, and Richard earl of Tyrone in the kingdom of Ireland, in this

De Donis, that a grant of it to a man and his wife, as joint-tenants in special tail, is good. And as to this, he expresses his opinion in the affirmative. He then proceeds to examine whether, upon supposition that such a grant is good, the attainder of lord Stafford would, independently of the statutes of 26 Hen. 8, c. 13, and 5 and 6 Edw. 6, c. 11, be a forfeiture of the barony of Stafford, as against his wife the cograntee in joint-tenancy (who survived him), and as against her issue by his lordship. And as to this he delivers his opinion, 1. That under the operation of the law of forfeiture, upon estates of inheritance, previously to the statute *De Donis*, that attainder would not be such a forfeiture, independently of the statutes 26 H. 8, and 5 and 6 Edw. 6: but 2ndly, That if the case were otherwise, the statute *De Donis* would unquestionably prevent that attainder from operating such forfeiture. He next enquires whether those two statutes of 26 H. 8, c. 13, and 5 and 6 Edw. 6, c. 11, so extend the laws of forfeiture, as to superinduce such forfeiture of the barony as against lady Stafford and her issue by lord Stafford. And in the prosecution of this enquiry, he makes two questions: First, Whether the two statutes of 26 Hen. 8, and of 5 and 6 Edw. 6, extend the pre-existing law of forfeiture of inheritances for high treason, in cases of joint-tenancy: and Secondly, Whether the enactments for forfeiture of inheritance in the two statutes of 26 H. 8, and 5 and 6 Edw. 6, apply to cases of attainder of high treason, on an impeachment by the House of Commons. He resolves in the negative both these questions; and as to the former of them he thinks it more especially clear, that those statutes cannot properly be construed to deprive a wife of her rights of survivorship, in the particular case of a joint inheritance constituted in husband and wife after marriage.

Mr. Hargrave afterwards notices other grounds, which might be taken in favour of the claims of lady Anastasia S. Howard and sir W. Jerningham: 1st. As to the distinction between an ordinary hereditament which is aliena-

extends only to limitations which concern lands and tenements, and therefore without naming some place, a limitation of an honour to one and the heirs males of his body, would be a fee-simple conditional at common law, and if so would be forfeited by attainder of felony, as an estate-tail of a baronetship, which is not created of any place. See 12 Co. 81. 12 Mod. 57. But see also Cruise on Dignities, ch. 4, s. 1—6, s. 72, 73, 74.

House, upon the first day of the meeting of this parliament, which recognizances were entered into in his majesty's court of King's Bench, and returned by Certiorari into this House; as also for the discharge of the said earl of Powis, earl of Danby, lord Arundel, lord Bellasis, and

ble by fine, and a title of honour which is not so alienable.*

2. As to the operation of the peculiar words 'respective' and 'respectively,' both of which are used, and the former of which is very frequently repeated in the grant by Charles the First, of the barony of Stafford to husband and wife in special tail.

But into these he does not enter.

3. As to apparent error on the record of the attainder of lord Stafford.

This last ground consists of two parts, (exclusive of Mr. Hargrave's doubts concerning an attainder on an impeachment, tried after dissolution of the parliament in which it was made), of which one is that according to the recital of the judgment of attainder [See this recital in the warrant of execution, p. 1562.] the judgment against lord Stafford was neither By the King, nor By the King and Lords, nor even with the least mention of or reference to him, but By the Lords, and Them only: and the other is that the judgment by the Lords is not By the Lords Temporal and Spiritual, or By the Lords generally, but exclusively By the Lords Temporal.

Upon these two points Mr. Hargrave does not pronounce any definite opinion: nor does he engage in the ancillary disquisitions, into the nature of the judicature of parliament; the regality of the crown in that respect; the nature of that judicature in the particular case of an impeachment by the Commons; the extent of the regality of the King in parliament; the share of the Spiritual Lords in the judicative functions of the Upper House. He contents himself with the recital of two antient cases, to shew that neither of the two errors which he suggests are without precedent. Mr. Hargrave next adverts to the consideration, whether there is any such limitation of time for petitions of error to the king in parliament, as might make it too late to proceed for the reversal of the attainder of lord Stafford in that way: and he concludes with a very able critical review of the history of the Popish Plot; including many important details illustrative of the proceedings against lord Stafford, together with a display of the illustrious descents of that lord and of his wife.

From the short account, which I have thus given of Mr. Hargrave's "Opinion and Argument," every lawyer will immediately perceive, how extremely interesting and how highly valuable must be such a work, executed by such a master.

* See Purbeck's Case, Lords' Journals, June 18, 1678. See too Cruise on Dignities, ch. 4, s. 57.

earl of Tyrone: It is ordered, That the said William earl of Powis, Thomas earl of Danby, Henry lord Arundel of Wardour, John lord Bellasis, and Richard earl of Tyrone, as also all persons, peers or others, that were bail for the appearance of the said lords upon the said recognizances, be, and are hereby, discharged.

June 3.

The House was put into a committee, to proceed in the consideration of the Bill for reversing the attainder of the lord viscount Stafford. The House was resumed.

The earl of Bridgewater reported, "That the committee of the whole House were in further consideration of the Bill for reversing the attainder of the lord viscount Stafford, and were reading of records, which would take up some time; but the committee understanding there was a message from the House of Commons of great concern, were willing the House might be resumed, to receive the said message; and then desired the House would appoint another time for the House to be put into a committee again."

The House ordered, the committee of the House should sit again, after the receiving of the message.

The House was again adjourned into a committee, to proceed in consideration of the business which was debated before the message.

The House was resumed. And the earl of Bridgewater reported "That the committee of the whole House have considered the bill for reversing the attainder of the lord viscount Stafford; and have made some alterations in the title, a considerable amendment in the preamble, and a small amendment in the enacting clause. The opinion of the committee is, That the bill do pass with the said amendments." The amendments were read twice; and the House agreed to the said amendments. Then the question was put, "Whether this bill with the amendments, shall be engrossed?" It was resolved in the affirmative.

The earl of Anglesea and some lords desired leave, before the question was put, to enter their dissents, if the question were carried in the affirmative.

"1. Because the assertion in the bill, of its being now manifest that the viscount Stafford died innocent, and that the testimony on which he was convicted was false, which are the sole grounds and reasons given to support the bill, are destitute of all proof, warrant, or matter of record before us. 2. That the record of the King's-bench, read at the committee concerning the conviction, last term, of one of the witnesses for perjury, in collateral points of proof, of no affinity to the lord Stafford's trial, and given several years before, it is conceived, can be no ground to invalidate the testimony upon which the said viscount was convicted: which could never legally be by one witness, and was, in fact, by the judgment of his peers on the evidence of at least three. 3. It is conceived, the said judgment in the King's bench,

and the whole proceedings was unprecedented, illegal, and unwarranted, highly derogatory to the honour, judicature, and authority of this court, who have power to question and punish perjuries of witnesses before them, and ought not to be imposed upon by the judgments of inferior courts, or their attainders of a peer invalidated by implication; and the popish plot, so condemned, pursued, and punished by his late majesty and four parliaments, after public solemn devotion through the whole kingdom, by authority of church and state, to be eluded, to the arraignment and scandal of the government and only to the restoring of the family of one popish lord; and all this being without any matter judicially appearing before us to induce the same, and the records of that Trial not suffered to be read for information of the truth before the passing of the bill.—Lastly, For many other weighty reasons offered and given by divers peers in two days debate of this bill, both in the committees and the House. **ANGLESEA.**

June 4.

The Bill was read the third time. The question being put, "Whether this bill shall pass?" It was resolved in the affirmative. Several lords desired leave to enter their Dissents to this question:

"*Dissentiente, RADNOR.*"

"I, Anglesey, protest against this bill's passing, for the same reasons entered the day before.

"I protest against this bill, because the preamble was not amended, and no defect in point of law alledged as a reason for the reversal of the attainder. **CLARE, STAMFORD, R. EURE.**"

In the House of Commons the Bill was read a first time on the 5th of June, a second time on the next day, and ordered to be committed on the 12th of June, but I have not met with any mention of further proceeding upon it. On the 4th of August the House adjourned to the 9th of November, when they met and sat till the 20th, they were then prorogued, and during the remainder of king James's Reign, Parliament never met to do business.

Notwithstanding what Burnet says of bishop Lloyd's report concerning the apparent sincerity of Praunce, [See vol. 6, p. 1424,] who was a principal witness against lord Stafford, it appears that he was upon his own confession convicted of perjury in wilfully forswearing himself at the trials of Robert Green, Lawrence Hill, and Henry Berry, &c. in relation to the murder of sir Edmundbury Godfrey, see p. 228, of this Volume. Mr. Hargrave caused to be taken a copy of the record of Praunce's conviction, and very obligingly would have communicated it for insertion in this place: but it had been mislaid, and his search for it was unsuccessful.

END OF VOL. VII.

